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COMMITTEE ON THE RIGHTS OF THE CHILD

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Second periodic reports of States parties due in 1999

Addendum

BELGIUM[*] [**]

[7 May 1999]

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[*] For the initial report of Belgium, see document CRC/C/11/Add.4; for its consideration by the Committee, see documents CRC/C/SR.222-224. The concluding observations of the Committee on the initial report are contained in document CRC/C/15/Add.38.

[**] The annexes referred to in the document may be consulted in the files of the secretariat.

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I. INTRODUCTION

1. The Government of Belgium presents its second report on the implementation of the Convention on the Rights of the Child, pursuant to article 44, paragraph 1 (a), of the Convention. This report deals with the measures taken by Belgium to give effect to the rights recognized in the Convention and indicates the progress achieved in the enjoyment of those rights.

A. Main thrust of the report

2. In the light of the tragic events that shook Belgium in August 1996, new emphasis has been placed on the child and the need to protect the child against all forms of violence or sexual exploitation. It is this guiding principle that has been the focus of the Government's action in recent years.

3. Various measures have been taken, some of which, in direct response to the recommendations made by the Committee on the Rights of the Child when Belgium submitted its initial report, can now be highlighted and will be described in greater detail later in this report.

4. At the end of August 1996, a national commission of experts was given the task of examining questions pertaining to the prevention of the sexual exploitation of children. Its work resulted in the preparation of a final report containing various proposals. At the request of the Communities, the Inter-ministerial Conference on the Protection of the Rights of the Child was created to ensure the follow-up of these proposals, with the aim of considering the issues that required closer cooperation among the different levels of government.

5. In addition, the Council of Ministers created the National Commission on the Rights of the Child, consisting of representatives of the Ministries of Foreign Affairs, Justice and the Interior and representatives of the three Communities. Its principal task is to prepare the five-year reports that Belgium is required to submit to the Committee on the Rights of the Child in the future, although the Inter-ministerial Conference on the Protection of the Rights of the Child may also request it to consider certain specific questions. From the outset, the National Commission was expected to secure the involvement of parastatal bodies, non-governmental organizations (NGOs) and experts.

6. These structures were built primarily so that a coherent and effective policy to protect the rights of the child could be introduced, in response to the recommendation of the Committee on the Rights of the Child:

> "... to establish a permanent mechanism of coordination, evaluation, monitoring and follow-up for policies aiming at the protection of the child to ensure that the Convention on the Rights of the Child is fully respected and implemented, at the federal and communities levels. In this respect and as part of the ongoing efforts of the State party to promote and protect the rights of the child, the Committee suggests that ways and means be established to facilitate regular and closer cooperation between the federal and communities governments in cooperation with non-governmental organizations involved in monitoring the respect for the rights of the child in the State party" (CRC/C/15/Add.38, para.13).

7. Academics and representatives of NGOs were therefore directly involved in the preparation of this report. Meetings were held, initially at Community level, with representatives of the relevant NGO coordinating bodies (both French and Dutch-speaking). After those preparatory meetings, a meeting was held at national level. Members of the National Commission, academics and representatives of the NGO coordinating bodies were invited to attend. It was primarily these groups that were given the opportunity to take the floor; they provided an objective and constructive evaluation of the report, which stimulated

genuine dialogue both about the report and about other fundamental issues concerning children (the minutes of the various meetings are contained in the annex).

8. During the debate, it became clear that the established structures, as they stood, failed to meet the expectations of all parties. It was thought that reviewing the respective roles of the Inter-ministerial Conference and the National Commission, as well as their organization and working methods, would serve to rectify these shortcomings.

9. Other child-protection initiatives taken by Belgium include, at the international level:

- The introduction of four joint measures with the European Union; and
- The approval procedures for the Hague Conventions on the Civil Aspects of International Child Abduction and on the Protection of Children and Cooperation in Respect of Intercountry Adoption.

At national level:

- The creation of a private European centre for missing and sexually exploited children;
- The preparation of an action plan to prevent disappearances;
- The introduction of the 1995 laws on sex crimes;
- The reform of the Criminal Code;
- The establishment of a working group to prepare a set of guidelines relating to recorded children's hearings; and
- The negotiation of cooperation agreements on aid to victims.

10. Significant measures have also been taken at Community level. For example:

- In the French Community, the Observatory on Children, Youth and Assistance to Young People was set up, responsible, inter alia, for giving views on all questions relating to children and youth and for assessing the implementation of the Convention. A decree was also adopted to provide assistance to abused children and to give official status to a telephone helpline for children.
- In the Flemish Community, a decree was introduced providing for the preparation of an impact report on the child and an annual assessment of Government policy on the rights of the child; the Commission on the Rights of the Child was created, and a minister was appointed to coordinate activities relating to children's rights; and an inter-departmental working group on the rights of the child was established.
- In the German-language Community, the Decree on assistance to children was adopted, guaranteeing the right of any young person living in the German-language Community to organized assistance, and establishing the Youth Assistance Council.

B. Replies to the suggestions and recommendations of the Committee

1. Children seeking asylum

11. At the oral submission of the Belgium's initial report, the Committee expressed concern

> "... about the application of the law and policy concerning children seeking asylum, including unaccompanied children. It is particularly concerned that unaccompanied minors who have had their asylum request rejected, but who can remain in the country until they are 18 years of age, may be deprived of an identity and denied the full enjoyment of their rights, including health-care and education. Such a situation, in the view of the Committee, raises concern as to its compatibility with articles 2 and 3 of the Convention" (ibid., para.9).

12. The statistics appended to this report show that the number of minors seeking asylum is on the increase: the figure rose from 1,009 applications in 1994 to 1,833 in 1998.

13. It must be recognized that there are still no specific regulations relating to the care of unaccompanied minors seeking asylum. In theory, public social assistance centres are responsible for such care but, in practice, they do not provide it. Nor are there any regulations regarding minors whose application for asylum has been rejected but who are "allowed" to stay on Belgian territory.

14. The Belgian authorities are trying to resolve this issue and have taken part in several international symposiums. The Inter-ministerial Conference on Immigration Policy set up a working group to make proposals for improving the care provided for unaccompanied foreign minors. Thus, the group implemented a series of initial measures relating to the systematic identification of minors, the care provided for them and their legal representation throughout the asylum procedure.

15. A school-age child residing illegally in the French Community has the right to receive education and may be taken into account for the purposes of calculating staffing levels and subsidies, on the condition that the child has regularly attended an educational establishment over a period of four months.

16. Children residing illegally in the Flemish Community also enjoy the right to education, even if they cannot prove their identity. A working group on undocumented migrants (Mensen zonder papieren) has been set up in the Flemish Community, as well as a contact point (aanspreekpunt) for unaccompanied minors; childcare is provided by centres registered to give special assistance to young people. These minors, like all other minors living in Flanders, can count on the aid and assistance provided by the Flemish assistance services.

2. Placement in care

17. "With regard to the provisions of article 2 of the Convention, the Committee is concerned that children belonging to disadvantaged groups of the population appear more likely to be placed in care. In this regard, the Committee recalls the importance of the family in the upbringing of a child and emphasizes its view that the separation of a child from his or her family must take the child's best interest as a primary consideration" (ibid., para. 10).

18. Parents are the natural guardians of children, a principle that all levels of Government endeavour to apply.

19. The Communities have been involved with a working group, headed by the Minister for Justice, on the abolition of the Act concerning the abandonment of under-age children. It is felt that the benefits of this

act are minimal and that its implementation has given rise to abuse. The focus of this debate was the issue of placement in care for reasons of poverty.

20. The French Community is considering a reform of the sector that provides care in crisis situations, based, in particular, on the fact that no child must be placed in care or separated from his or her family for reasons of poverty and on the premise that it is in the child's best interest to be brought up in his or her own family environment.

21. A general report on poverty prepared in 1994 revealed that many children were still separated from their families purely because of material difficulties. The aim of the French Community is to find ways of putting its intentions into practice by undertaking a thorough review of the private services in the youth assistance sector that it has authorized to provide care for young people in difficulty. A review of the current system of funding is called for, a system which, on the whole, continues to support the placement of children in care.

22. In the Flemish Community, the proportion of community-based assistance provided to families increased from 24.75 per cent of the total special aid for young people in 1994 to 30 per cent in 1997. The Executive Decree of 13 July 1994 provides that, on average, one support session may be held per week, usually at the minor's home.

23. Parents may address their questions to Kind en Gezin (Child and Family) or to district nurses. In every region, there is a centre with someone on duty every day to answer parents' questions about nutrition, care, education and some medical issues.

24. The aim of the Gezin en Welzijnsraad (Family and Welfare Council) is to monitor family and welfare policy and any developments in that field, to determine the social needs in the area of family and welfare, to evaluate the measures provided at that level and to make proposals on issues affecting family and welfare.

25. In the German-language Community, the Dienst für Kind und Familie (Child and Family Service) provides assistance to all families from the moment a child is born until it reaches the age of three. In recent years, it has given priority to disadvantaged families and those at risk (families in which there is a risk of neglect or abuse).

3. Consideration of the interpretative declarations

26. "The Committee wishes to encourage the State party to consider reviewing the declarations made upon ratification of the Convention with a view to considering withdrawing them." (ibid., para.12).

27. The Ministry of Foreign Affairs held two meetings in June 1997 and November 1998 respectively, to discuss the possible withdrawal of the interpretative declarations made by Belgium upon ratification of the Convention. The first declaration reads:

> "With regard to article 2, paragraph 11, according to the interpretation of the Belgian Government non-discrimination on grounds of national origin does not necessarily imply the obligation for States automatically to guarantee foreigners the same rights as their nationals. This concept should be understood as designed to rule out all arbitrary conduct but not differences in treatment based on objective and reasonable considerations, in accordance with the principles prevailing in democratic societies."

28. The Belgian Government considers it necessary to retain this interpretative declaration.

29. In fact, the purpose of the provision of article 2 is to rule out arbitrary conduct and not differences in treatment based on legitimate considerations. The given interpretation of the concept of "discrimination" is in accordance with the now universally accepted doctrine regarding the term, in other words, the criterion used to constitute a breach of the principle of equality of treatment is the absence of an objective and reasonable justification for distinction. Such a justification is more likely if the purpose is to achieve a legitimate goal and there is a reasonable proportional link between the means used and the goal to be achieved.

30. The Belgian institutions constantly endeavour to ensure the non-discriminatory treatment of persons on Belgian territory.

31. For example, the Court of Arbitration recently ruled that social assistance must be granted to a foreigner residing illegally on Belgian territory, whose application for asylum had been rejected and who had been issued with an expulsion order (Decision 43/98 of 22 April 1998).

32. Another example concerns the creation of a centre, attached to the Prime Minister's Office, for equal opportunities and the fight against racism (Act of 15 February 1993, which entered into force on 1 March 1993). This centre has legal personality; its aim is to promote equal opportunities and to combat all forms of discrimination, exclusion, restriction or preference based on race, colour, extraction, origin or nationality.

33. With regard to the provision of personal assistance, and within the scope of its mandate, the centre is authorized to help any individual seeking advice about his or her rights and obligations. Like other bodies, and pursuant to amended article 5 of the Act of 30 July 1981, it can also institute legal proceedings in any case that may arise as a result of the enforcement of this Act.

> "Articles 13 and 15 shall be applied by the Belgian Government within the context of the provisions and limitations set forth or authorized by the said Convention in articles 10 and 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.
>
> "The Belgian Government declares that it interprets article 14, paragraph 1, as meaning that, in accordance with the relevant provisions of article 18 of the International Covenant on Civil and Political Rights of 19 December 1966 and article 9 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, the right of the child to freedom of thought, conscience and religion implies also the freedom to choose his or her religion or belief."

34. These two interpretative declarations respectively concern articles 13 and 15 and article 14, paragraph 1, of the Convention. The Belgian Government would like to point out that, although the reservations entered by a State party serve to exclude or amend the legal effect of certain provisions of a convention in their implementation in that State party, the aim of the interpretative declarations is, theoretically, not to exclude or to limit the application of a provision, but simply to clarify its meaning.

35. The Belgian Government does not intend to withdraw these two interpretative declarations. Belgium is bound by various international instruments and committed to the development of corresponding case-law (European Convention on Human Rights); the Government considers that all the rights contained in the Convention on the Rights of the Child are complemented by certain provisions of these instruments, which therefore provide better protection of the rights of the child.

36. Article 14, paragraph 1 of the Convention on the Rights of the Child, which reaffirms, inter alia, the right to freedom of religion, is less comprehensive than the corresponding articles of the International

Covenant on Civil and Political Rights (art. 18) and the European Convention on Human Rights (art. 9), which refer to the individual's freedom to choose his or her religion.

> "With regard to article 40, paragraph 2 (b) (v), the Belgian Government considers that the expression "according to law" at the end of that provision means that:
>
> (a) This provision shall not apply to minors who, under Belgian law, are declared guilty and are sentenced in a higher court following an appeal against their acquittal in a court of first instance;
>
> (b) This provision shall not apply to minors who, under Belgian law, are referred directly to a higher court such as the Court of Assize."

37. The Belgian Government also considers it necessary to retain the interpretative declaration concerning article 40, paragraph 2 (b) (v).

38. This reservation makes it possible to dispel any ambiguity that might arise regarding the referral of cases to higher courts. Furthermore, it provides some clarification about cases involving minors whereby the jurisdiction has been relinquished by the juvenile court under article 38 of the Act of 8 April 1965, and, if necessary, referred to a higher court such as the Court of Assize.

4. Coordination and cooperation mechanism

39. This issue is discussed above, in the section addressing the main principles behind the report.

5. Permanent data-collection mechanism

40. "The Committee recommends that Belgium envisage the creation of a permanent mechanism of data collection at the national level, in order to have an overall assessment of the situation of children in the country and to ensure a comprehensive and multidisciplinary evaluation of progress and difficulties in implementing the Convention" (ibid., para.14).

41. In the wake of the 1993 reforms, Belgium became a federal state in which responsibilities are shared between the Federal Government, the Communities and the regional authorities. The Communities are largely responsible for cultural affairs, education, languages and the area known as "personalized matters", which includes policy on health and social welfare. The federal authorities, however, retain responsibility for certain issues relating to civil law, criminal law and the legal system applying to young people.

42. The Communities deal with all matters relating to the protection of young people at risk, drafting and applying legal and related texts, implementing protective measures for young offenders and the building of the necessary infrastructure. The division of responsibilities is based on the desire to make the protection of young people the responsibility of an authority focusing more on social than legal aspects.

43. In this context, it is becoming clear that putting a national data-collection mechanism in Belgium is an extremely complex operation.

44. However, the Communities have all taken measures for organizing data collection and monitoring the implementation of the Convention.

45. The Government of the French Community has therefore established the Observatory on Children, Youth and Assistance to Young People, an objective evaluation tool aiming, inter alia, to provide an

accurate assessment of the problems affecting children and young people, to maintain an up-to-date list of services and agencies and to promote all possible initiatives in that field. The Observatory also gives its opinions on all issues relating to children, youth and assistance to young people and evaluates the implementation of the Convention.

46. In the Flemish Community, a decree provides for an impact report on the child and an assessment of the Government's policy on the rights of the child. This report must describe the situation of the child in his or her immediate surroundings and the foreseeable impact that a decision and its alternatives has on the situation.

47. The Decree that provides for the impact report comprises a second element, the aim of which is to monitor Government policy on the Convention. This second element requires the Government to prepare two types of annual written report: a report on the implementation of the Convention (making reference, at the very least, to measures taken to respect the rights guaranteed by the Convention, any useful information about upholding the principle of non-discrimination with regard to children, the right of the child to perform certain acts and the right of participation, health and welfare indicators, aspects concerning education, leisure and cultural activities, specific measures relating to the protection of the child, an annual evaluation of the impact reports on the child and the link between the latter and reports on emancipation; and another report on compliance with the Convention in countries and regions with which the Flemish Community has cooperation agreements.

48. The Communities have indicated their agreement to pool their data; the work could be carried out by a coordinating unit, and the National Commission on the Rights of the Child could become responsible for identifying the appropriate data and for setting the criteria for the collection process.

6. Harmonization of national legislation with the provisions of the Convention; abolition of the death penalty; prohibition of corporal punishment within the family

49. The Committee is of the opinion that "efforts to harmonize national legislation with the provisions of the Convention should be further pursued, in particular as regards articles 38 and 53 of the Young Person's Protection Act of April 1965 with a view to ensuring its full conformity with the Convention. The Committee wishes to encourage the State party to continue to take steps with a view to ensuring the abolition of the death penalty in peace as well as in wartime. The Committee further encourages the State party to consider reforming its legislation with a view to ensuring the prohibition of corporal punishment within the family." (ibid., para.15).

a) Harmonization of national legislation

50. At present, minors who are under 16 years of age at the time of the offence cannot receive a prison sentence. The only exception to this rule is article 53 of the Act of April 1965, which provides for temporary placement in a detention centre for a maximum 15 days (the 1998 figures on the implementation of article 53 are contained in the annex). The repeal of article 53 has already been addressed in article 53 bis adopted by Parliament, although the repeal date has not yet been set. In cases involving minors aged 16-18, the juvenile court may, if the available correctional measures are considered inadequate, relinquish jurisdiction of the case and refer the minor to the public prosecutor, who will decide whether the case must be referred to an adult court.

51. A national commission for the reform of youth welfare legislation (known as the Cornelis Commission) conducted a study and submitted a report in 1996; subsequently, the Ministry of Justice created a working group to prepare a preliminary draft law on the reform of youth welfare legislation. The work is still in the drafting stages, but it is already certain that if a decision needed to be taken to retain the

option of relinquishment of jurisdiction, the circumstances of a minor subjected to such a measure would, in any case, be reassessed, so that any sentence passed following a relinquishment of jurisdiction would take his or her special status of the minor into account.

52. In the French Community, in view of the imminent repeal of article 53, the Delegate-General for Children's Rights has advocated the creation of a committee of experts to examine various alternatives to the imprisonment of minors.

53. The Flemish Community, as far as its field of competence allows, has repealed article 53 of the Protection of Young Persons Act of 8 April 1965; article 53 no longer applies except in cases where minors have committed a punishable offence, as this falls within the competence of the federal authorities. Considerable efforts have been made to ensure that, in the context of assistance, the detention capacity is adequate; additional resources were allocated in the 1999 budget to address the new social needs.

b) Abolition of the death penalty

54. The death penalty was abolished in Belgium by the Act of 10 July 1996, however, the abolition affected only adults because, contrary to what was incorrectly stated in the 1995 report to the Committee on the Rights of the Child, article 77 of the Criminal Code already provided minors with a statutory excuse, which meant that they could not be given a death sentence.

c) Prohibition of corporal punishment within the family

55. A Criminal Code reform bill has been prepared. It aims to strengthen child protection, inter alia, against neglect, starvation, abandonment and all forms of physical and sexual abuse within or outside the family.

56. The bill also contains a specific provision to condemn genital mutilation and amends the rules relating to breaches of professional secrecy. Persons normally bound by professional secrecy will now be able to reveal to the competent authorities any incidences of physical and sexual abuse and any genital mutilation performed on a minor under the age of 14, without risking prosecution for breach of confidentiality.

7. Participation of children

57. "The Committee would also like to suggest that further consideration be given in the light of article 12 of the Convention to ways of encouraging the expression of views by children and those views being given due weight in the decision-making processes affecting their lives, in particular in family life, at school and local levels as well as within the judicial system, including in situations where the child participates in the proceedings as a witness." (ibid., para.16).

58. The Act of 30 June 1994 amending article 931 of the Judicial Code and the provisions on divorce (*Moniteur belge*, 21 July 1994) supplemented the Judicial Code to give effect to article 12 of the Convention. A minor capable of forming his or her own views can now be heard, in any proceedings in which he or she is involved, without the presence of the parties to the case. A request to that effect, made by a minor to the judge or Crown Procurator, can only be dismissed on the grounds of a well-reasoned decision, based on the child's inability to form his or her own views. If the judge decides on a hearing, the minor may refuse to be heard.

59. Even in the case of divorce proceedings by mutual consent, instigated by agreement between husband and wife, the judge may decide, proprio motu, to hear the minor, pursuant to the rules of the new article 931 of the Judicial Code.

60. On the issue of adoption, the new draft legislation, at its current stage of preparation, provides for reducing from 12 to 15 the age at which persons must consent to their own adoption, on the condition that they are capable of forming their own views, are not under judicial disability and are not mentally retarded. They do, however, have to be heard by the court. Therefore, the child's opinion in this field is becoming a determining factor, in advance of the national legislation.

61. The Protection of Young Persons Act of 8 April 1965 now includes a new article 56 bis providing that minors over the age of 12 years must be summoned before the juvenile court in civil proceedings in which matters affecting their personal interests, the administration of their property, rights of access or the designation of an unofficial guardian are at stake.

62. The Act also provides the minor with greater protection in the pre-trial stage; the law foresees that the minor should have a genuine role to play in his or her own trial and therefore guarantees the right of the minor to be heard in person before any measure affecting him or her is taken or amended. When the Crown Procurator's Office decides to bring a matter before the juvenile court involving a minor over the age of 12, both the minor and the parents, guardians or the person who has custody of the minor have to be called before an open court, non-observance of which leads to nullity.

63. The French Community adopted the Decree of 4 March 1991 guaranteeing increased participation of children and young people and respect for their rights. Under this Decree, therefore, no assistance measures can be taken unless the child is heard in advance, irrespective of his or her age. In the area of education, the Mission Decree of 24 July 1997 provided for the creation of "participation councils" in schools, giving student representatives a say in the work plan of their own schools.

64. In addition to the Decrees relating to special assistance to young people, the Flemish Community approved the Decrees of 15 July 1997 on the preparation of an impact report on the child and on the monitoring of Government policy on the rights of the child, and establishing the Commission on the Rights of the Child.

65. A working group on recorded children's hearings has been set up to review the situation and to prepare a directive to standardize the techniques used to record hearings in criminal procedures (primarily those concerning children who are victims of or witnesses to offences against public decency). An amendment to the draft legislation to regulate the audio-visual recording of hearings has been lodged. When the Court deems it necessary for the determination of the truth to request the appearance of the minor, the hearing will be held by videoconference so that the child is not confronted with his or her alleged abuser.

66. Belgium is one of the 12 pilot countries selected by the United Nations Children's Fund (UNICEF) to take part in its "What do you think?" programme. The aim of the project is to encourage the participation of children in all aspects of life in society which affect them. The idea is to start involving children in the process of preparing the report on the rights of the child; this initial involvement of children should serve as an example and elicit positive reactions. The Ministry of Justice subsidized the launch of the project in Belgium.

8. Dissemination of the principles of the Convention

67. The Committee encourages the State party to develop a system to make "the principles and provisions of the Convention widely known to children and adults alike. In addition, the Committee

recommends that the principles and purposes of the Convention be made widely known in the languages spoken in Belgium, and translated also into the languages of major refugee and immigrant groups. In view of the adoption by the General Assembly of resolution 49/184 proclaiming the United Nations Decade for Human Rights Education, the Committee encourages the State party to consider using this opportunity to promote the incorporation of education about the Convention on the Rights of the Child in school curricula. It is the view of the Committee that it is important that the teaching methods used in schools should reflect the spirit and philosophy of the Convention and the aims of education laid down in its article 29" (ibid., para. 17).

68. As explained below, a compendium of the initial report of Belgium, the summary records of the sessions of the Committee and its concluding observations has been published, and includes the text of the Convention.

69. In the French Community, information on the rights of the child falls specifically within the purview of the Delegate-General for Children's Rights. The Community has taken a range of measures. For example, on 20 November 1998 (Children's Rights Day) a decision was taken to provide teachers with a child's rights training guide and a poster displaying some of the articles of the Convention. These posters will also be available in the offices of all youth assistance services. The National Bar Association launched the "Lawyer at School" project for pupils in the sixth grades of primary and secondary education.

70. On the issue of school curricula, the educational objectives were clearly set out in the Decree of 24 July 1997; one such objective was to prepare all pupils to become responsible citizens capable of making a contribution to the development of a society that is democratic, inclusive, pluralistic and open to other countries. A "Democracy or Barbary" unit has been created and is responsible for coordinating awareness-raising activities; it has prepared some booklets on human rights, a compendium of official human-rights documents and various brochures on human rights and democracy.

71. In the Flemish Community, the Commission on the Rights of the Child will be responsible for the important task of informing adults and children alike of the principles and provisions of the Convention. To date, information has been disseminated by sector. The creation of the Flemish Centre for the Promotion of Child and Family Welfare is also noteworthy; its main task is to serve as an independent monitoring body for the well-being of children and families in the Flemish Community. It is responsible, inter alia, for organizing the annual United Nations International Children's Rights Day and the United Nations International Day of the Family. The Children's Rights Centre in Ghent also plays an important role in providing training about the rights of the child in Flanders and elsewhere.

72. On the subject of school curricula, the Flemish Community is in the process of setting its final targets and development goals. Generally speaking, these goals encompass the minimum level of knowledge, comprehension, skills and attitudes that a pupil should achieve. Education on the rights of the child is one of these specific requirements; pupils must be able to illustrate the importance of fundamental human rights and the rights of the child.

9. Incorporation of these principles in training programmes

73. The Committee is also of the view that "consideration should also be given to incorporating education on the provisions and principles of the Convention in training programmes for various professional groups, including teachers, social and health workers, immigration officers, law enforcement personnel, judges and personnel in care and detention institutions" (ibid., para.18).

74. This recommendation is still to be implemented in the French Community, however, the Decree of 16 March 1998 on assistance to victims of child abuse is a partial response to this recommendation as it

gives the Standing Committee on Child Abuse the task of formulating a set of proposals concerning basic and continuous training programmes for the parties concerned.

75. In the Flemish Community, the training and awareness-raising activities provided by Child and Family highlight the fact that the message of the Convention on the Rights of the Child must be disseminated, in addition to information on education, nutrition and health-care. Numerous leaflets providing a clear explanation of the letter and the spirit of the Convention and drawing on examples from everyday family life have already been produced and widely distributed.

10. Signing of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

76. The Committee encourages the State party "to ensure that applications for the purpose of family reunification in the cases of refugees and migrant workers are dealt with in a positive, humane and expeditious manner." The Committee "encourages the Government of Belgium to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families" (ibid., paras.19 and 20).

77. The Belgian Government has not yet signed the International Convention on the Protection of All Migrant Workers and Members of their Families. However, a series of measures are being taken to ensure that the children of refugees or migrant workers enjoy maximum protection.

11. Publication of the initial report

78. The Committee "appreciates the willingness of the Government of Belgium to publish the initial report of Belgium, as well as the summary records of the meetings with the Committee and the concluding observations of the Committee on the report, and recommends that these documents be disseminated as widely as possible in the languages spoken in Belgium" (ibid., para.21).

79. The Belgian Government has printed the text of the initial report of Belgium, the summary records of the meetings with the Committee and the Committee's concluding observations in the three national languages (French, Dutch and German).

80. The document was made available free of charge on request from the Ministry of Justice.

II. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken to harmonize Belgian law and policy with the provisions of the Convention: specific actions in the field of child protection against all forms of violence or sexual exploitation (arts. 34 and 35)

1. At the federal level

a) European initiatives

81. During its presidency of the European Union in 1993, Belgium had submitted recommendations focusing on police and diplomatic cooperation in the fight against the traffic in human beings. Accordingly, there has been a steady increase in the number of liaison officials responsible for centralizing information on infractions committed inside and outside the borders of the Union. Moreover, as part of the Europol Convention designed to facilitate effective cooperation among the police forces of the member countries of

the European Union, including the exchange of personal data, our country made sure that the fight against the traffic in human beings, including sexual exploitation of children, was included among Europol's priority targets from the outset. During the second half of 1996, Belgium introduced four Joint Actions (a Joint Action requires the governments of Member States to take certain measures and submit texts establishing obligations within the ambit of the Legislature to their respective parliaments).

82. The first Joint Action (96/748/JAI) extended the mandate of the Europol Drugs Unit (EDU) to the fight against the traffic in human beings, including sexual exploitation of children. This unit is based in The Hague and processes non-personal data in fields such as drugs, clandestine immigration and traffic n nuclear materials. The common action was adopted on 16 December 1996.

83. The second Joint Action (96/747/JAI), adopted on 29 November 1996, was designed to draw up a systematic list of centres of excellence in the member countries of the European Union with regard to operational, scientific and technological policing to combat the sexual exploitation of children.

84. The third Joint Action (96/700/JAI), also adopted on 29 November 1996, was intended to use the budget of the third pillar to finance a number of research programmes, studies, traineeships and exchanges for persons involved in the fight against the traffic in human beings and the sexual exploitation of children; namely, judges, prosecutors, police officers, public officials, public services for preventing and combating those phenomena, services of assistance to victims or treatment of the perpetrators. As part of this programme, entitled STOP, two projects introduced by the Ministers of Justice were accepted. The purpose of the first was to study the advisability and feasibility of a European databank on missing minors, minors who were victims of the traffic in human beings and of sexual exploitation, and sex offenders. The second project concerned the prevention of recidivism and the conduct of a study to determine the situation regarding specialized, structured care of sex offenders within the European Union. The idea was to discover whether there was a common methodological core among the various countries so that guidelines for the future could be established.

85. The fourth Joint Action (97/154/JAI) was intended to harmonize criminal legislation within the European Union with a view to more effective penal, judicial and police cooperation. It emerged that sexual exploitation of children was the motive for a variety of provisions of criminal law in the Member States of the Union, and also in third countries. The dual objective was to discover how far the countries of the European Union agreed to harmonize criminalization of the sexual exploitation of children and do away with the requirement of criminalization of such acts both in the country where the prosecution occurred and in the country where the acts were committed. It was adopted on 24 February 1997.

b) Ratification of the Hague Conventions

86. On 10 August 1998 Parliament passed the Act ratifying the 25 October 1980 Hague Convention on the Civil Aspects of International Child Abduction. It will enter into force on 1 May 1999. This convention will serve as an additional tool in the search for children illicitly displaced by a parent. Its purpose is to ensure the immediate return of children under 16 illicitly displaced or retained in any contracting State and to ensure that the right of custody and visiting rights are effectively respected.

87. The purpose of the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption of 29 May 1993 was to establish collaboration among States with a view to guaranteeing that international adoptions took place in the best interests of the child and with respect for the fundamental rights conferred on children in international law. It also aims to prevent the abduction and sale of - or traffic in - children. It therefore fulfils the commitments contained in article 21 of the Convention on the Rights of the Child which require, on the one hand, that a child is adopted only if it cannot in any suitable manner be cared for in his country of origin and that, on the other hand, it respects the rights of the

child and those of his parents, who must have given their informed consent. It also prohibits any improper financial gain.

88. A working group, comprising federal and community administrations and ministries concerned, prepared the preliminary draft approval, which was to contain a basic reform of private international law and those the Civil Code that domestic adoption. This preliminary draft was approved by the Council of Ministers.

89. The philosophy behind this reform is to ensure that a child to be adopted enjoys all the guarantees of respect for his fundamental rights and that the fundamental rights of the parents are also respected.

c) Creation of a private European centre for missing and sexually exploited children

90. On 20 October 1996 - the day of the White March, in which nearly 300,000 persons took part - the Prime Minister announced the creation of a European centre for missing and sexually exploited children. Following a briefing visit to the American Centre in Washington (NCMEC), a working group prepared the specifications for the centre, which was officially inaugurated on 30 March 1998. It operates under the name *Child Focus* and is totally independent of the Government. The Centre is recognized as a public utility establishment.

91. The protocol governing collaboration between the Centre and the judicial and police authorities clearly states that investigations are to be conducted exclusively by the judicial authorities and the police. Like its American counterpart, its purpose is to assist the parents of missing children and encourage public cooperation.

92. Calls to the European Centre for Missing and Sexually Exploited Children are made to a free nationwide emergency number 110, which can be reached 24 hours a day. *Child Focus* also has an international number for calls from abroad.

93. The Centre's action in cases of disappearance or sexual exploitation comprises:

- collecting data and transmitting them to the judicial authorities and keeping abreast of their developments;
- disseminating other missing-person messages (large and small posters, broadcast notices, etc.);
- contacts by the case manager with the investigating authorities;
- supporting the missing or sexually exploited child's family, including in their representations to the authorities, and putting them in contact with victim-assistance services or specialized associations.

94. In six months of operation, *Child Focus* received a total of 14,737 calls and opened 603 files, 196 of which concerned cases with which the Centre was not competent to deal or which could be solved directly by the operators.

95. Of the remaining 407 cases, 174 were runaways, 131 parental abductions, 60 alarming disappearances, and 42 sexual exploitation.

96. By 30 September 1998, 328 files had been closed.

d) Missing-persons plan

97. General guidelines were prepared for the search for missing persons. Their purpose is, naturally, to enhance the chances of finding the missing person safe and sound, but also to identify and apprehend the perpetrators if a crime has been committed.

98. The primary aim is to issue precise and mandatory instructions to the police and magistrates and provide them with an instrument in support of their work by drawing on lessons from past omissions and using constructive initiatives as a model.

99. The guidelines thus comprise instructions, a vademecum and a training manual. Their content is quite vast and concerns, inter alia:

a) Organization of the activities of persons responsible for specific missions both in the police and the judiciary. For instance, the circular will require the existence of reference judges who will be responsible for coordination on the bench and for directing the investigations. Once a judicial inquiry has been ordered it is, of course, the examining magistrate who will lead the investigation;

b) Definition of seven criteria for determining whether a disappearance gives cause for alarm, which is important in that it imposes obligations additional to those generally imposed.

c) Immediate fulfilment of various obligations, such as official publication of a full statement, collection of as much evidence as possible, etc. In the event of a disappearance that gives, or might give, cause for alarm, the duty officer in the Procurator's Office must be immediately informed and, if he confirms that there is such cause, additional obligations must compulsorily come into play (immediate transmission of the report, notification of the national missing-persons bureau, which will in turn notify the national judiciary, etc.);

d) organization of the judicial inquiry as such, which is directed by the prosecuting magistrate; once the case is being investigated, the examining magistrate will personally assume direction of the investigation, but the prosecuting magistrate in charge of the file will continue to follow its development closely;

e) reception of victims and their relatives, which must be a major concern of the police and judicial authorities, as soon as the disappearance is reported;

f) organization of follow-up on all missing-persons files with particular attention to disappearances deemed to be alarming.

e) National commission of experts to study sexual exploitation of children

100. Following the decision of the Council of Ministers of 30 August 1996, a national commission of experts to study the issues involved in fighting sexual exploitation of children was set up for a one-year term at the round table that brought together, on 18 October 1996 at the Royal Palace, the families of missing and murdered children.

101. The National Commission against Sexual Exploitation of Children:

a) has three objectives:

- to gain a better understanding of the scope and incidence of the phenomenon of sexual exploitation of children;
- to evaluate the policy implemented thereon in Belgium;
- to formulate specific proposals in the light of the above;

b) focused on five priority areas:

- the social and legal status of the child victim;
- approach to the phenomenon and its international dimension;
- assistance to child victims;
- the role of the justice system;
- perpetrators of sexual exploitation of children;

c) based its work on certain guiding principles:

- the children themselves and their experience are the starting point and permanent reference for reflection on the subject;
- sexual exploitation and murder of children deserve special attention and are the extreme expression of a child's fragile social and legal position in society;
- a reactive policy is important but is not enough;
- sexual exploitation of children must, first and foremost and as far as possible, be prevented;
- each and every person bears that responsibility, which must be respected and assumed at all levels;
- in a constructive spirit, initiatives already taken with regard to the ill-treatment and legal protection of children must be further enhanced and, where necessary, improved or supplemented.

102. The National Commission has endeavoured to organize a broad consultation with a view to fulfilling its mission. To that end, it has organized, inter alia:

- a national forum entitled "Our children appeal to us" (Brussels, 25-28 May 1997);
- a youth forum (Brussels, 10 September 1997);
- a chat page on the Internet via Jeugdnetwerk.

103. Thanks to these initiatives, the Commission witnessed a number of individual and institutional reactions.

104. In its final report, adopted on 23 October 1997, it opted for concrete proposals on many areas at the national and international levels:

- prevention, which includes strengthening children's social and legal position;
- aid and assistance both to child victims and to the perpetrators of sexual exploitation;
- the legal approach, not only in the criminal and civil area, but also with regard to youth assistance and protection;
- recognition of children's rights.

105. The task did not end with the Commission's work. Its final report was, rather, an invitation, and an opening for further discussion and for genuine attention to the question of sexual exploitation of children at all levels.

106. It should be mentioned that the Inter-ministerial Conference on the Protection of the Rights of the Child (referred to in Part II, A. 2) was responsible for the follow-up of the proposals framed by the National Commission against Sexual Exploitation of Children, and adopted a plan of action on 17 December 1997.

107. This plan of action provides, inter alia, for:

a) The Government's commitment to submit to Parliament a draft declaration for amendment of the Constitution in order to include a provision guaranteeing the right to moral, physical, psychological and sexual integrity.

b) The proclamation of 20 November as Children's Rights Day.

c) The meeting of an inter-ministerial working group at the initiative of the Minister for Justice in order to study the Commission's proposals on procedures for dealing with the ill-treatment and protection of child victims. The proposals examined by this working group were:

- active "dejudicialization", entailing transfers of responsibility to the psycho-social and medical institutions;
- equal ranking of judicial and social action;
- recognition of the conditions for social action on the margins of professional confidentiality and the possibility for the courts to give priority to social action;
- establishment of links between sectors and of action models;
- creation of advisory services for ill-treated children in each district;
- affirmation of the role of SOS teams, youth- and victim-assistance services;
- the right to choose the means of access to action;

- the right to confidential assistance, and assistance in exceptional circumstances;
- the right to be housed in a place kept secret from parents;
- the right to be examined by a multidisciplinary team and the creation of specialized teams within the judiciary;
- the possibility of producing in court a report drawn up by an assistance service.

108. The purpose of this working group is the preparation of guidelines for the judicial authorities (magistrates and police) and instructions for the competent federal, Community and regional departments, as well as for private medical and social services. If necessary, cooperation agreements can be drawn up to stipulate the modalities of the required collaboration among sectors, respecting the authority of each echelon and the institutional-reform laws.

109. A working group piloted by the Communities will study the Commission's various proposals regarding the training of professionals.

f) The 1995 sex offences Acts

110. The *Moniteur belge* of 25 April 1995 published three Acts relating to questions of morals: one Act on the advertising of sexual services, one concerning trafficking in human beings and child pornography, and another on sexual abuse of minors.

111. The Act of 13 April 1995 on punishment of trafficking in human beings and child pornography covers various areas:

a) Trafficking in human beings. Criminal legislation has been enacted to punish trafficking in human beings, which is defined as "the act of permitting a foreigner to enter or stay on Belgian territory and to use fraud, violence or constraint against that foreigner or to abuse the extremely vulnerable situation in which that foreigner finds himself owing to his legal situation, a woman's pregnancy, or a person's illness, infirmity or physical or mental deficiency";

b) Prostitution. As was the case under the old law, prostitution itself is not a crime, but its exploitation by others is punishable. The legislator has sanctioned most severely any form of exploitation of immorality or prostitution of minors;

c) Child pornography. Child pornography is now explicitly prohibited by law. Article 383 bis of the Criminal Code, which prohibits the distribution, sale or manufacture, as well as the knowing possession of child pornography material, is a valuable tool in the fight against the sexual exploitation of children. However, it must be recognized that the age of 16 stipulated in that article poses a problem of compatibility with article 34 of the Convention on the Rights of the Child, which protects children up to the age of 18.

d) Extraterritoriality clause. Under an extraterritoriality clause, any person in Belgium who has committed abroad immoral acts stipulated as such by the legislator against a minor aged under 16 may be prosecuted.

112. In December 1995, the Ministry of Foreign Affairs instructed all diplomatic and consular missions to systematically obtain the police report when a Belgian was arrested for sex offences against minors

under 16; it was the first time that specific instructions were given on that subject. These guidelines have been further refined and expanded: the mission is required to inform the department in Brussels not only of the arrest, but also of all developments in the judicial proceedings. All these facts should enable the Belgian courts to deem whether it is competent to act under the principle of extraterritoriality; the information is transmitted to the Belgian courts through the national judiciary, which in turn ensures that it is communicated to all competent services.

113. The principle of extraterritoriality has already been invoked in several cases against persons who have committed immoral acts abroad.

114. Furthermore, embassies and consulates abroad have received instructions from the Minister for Foreign Affairs requiring them to approach the local authorities for information concerning any sexual abuse of a Belgian minor.

115. The Ministry for Foreign Affairs also published a brochure entitled Tourism without risk, containing useful hints for Belgian tourists abroad, specifying, inter alia, that in the event of sexual abuse of a child abroad, proceedings may be instituted in Belgium.

116. The Act of 13 April 1995 concerning sexual abuse of minors relates to the extension of the period of limitation, the hearing of the minor by the authorities, the option of a trial in a correctional court for rape of a child under 10, the establishment of an increased penalty for failure to come to the aid of a child in danger, the compulsory requirement of the opinion of a specialized centre before sexual aggressors are released, the obligation of counselling or therapy for a person released conditionally and, lastly, the terms of a banning order:

a) Sexual abuse of minors abroad. The Minister for Justice and the Delegate-General for Children's Rights together devised and disseminated the brochure A child is not a sexual partner. The Minister for Justice and the Flemish Community also circulated another brochure;

b) Limitation. Under the law, the period of limitation begins, with regard to a victim of indictable offences in the articles referred to, only when he or she reaches the age of 18;

c) Banning. The law establishes that banning orders may be imposed on convicted persons and prisoners; these orders concern activities involving time spent with young people, or the authority to take decisions regarding them, not necessarily for gain, thus covering both professionals and volunteers;

d) Failure to come to the aid of a child in danger. The new Act has increased the penalty when the victim of failure to assist is a child;

e) Rape of a minor under 10. Prior to 1995, rape of a minor under 10, punishable by hard labour for life, was one of the rare crimes not tried in a correctional court. The extension of the concept of rape to any act of sexual penetration by the Act of 4 July 1989 resulted in an increase in the number of files designated as pertaining to rape, but did not correspond to a real increase in the number of sexual attacks on children. Moreover, the compulsory competence of the Court of Assize was riddled with shortcomings such as the inappropriateness of the oral procedure to this type of act, the slowness and cost of the procedure, and the congestion of this jurisdiction as a result of the increased number of files outside the competence of the correctional court. That had been the reasons for closures of files and more systematic recourse to imprisonment. These various reasons justified the legislative change made to the Act of 13 April 1995. The Minister for Justice, in a circular of 17 May 1995 concerning morality laws, recalled, however, that in cases of organized crime (paedophile rings) or acts accompanied by violence, the Court of Assizes was still the correct jurisdiction. Furthermore, even in a correctional court, rape of a minor under 10 could lead to a sentence of 10 years in prison and, in the event of legal recidivism, to a penalty of 20 years in prison.

g) Reform of the Criminal Code

117. The courts enforce the criminal laws that form the juridical framework of their action. It is therefore important for that framework to be adapted to the situation in society.

118. In Belgium, the main criminal provisions governing assault, like the Criminal Code, date back to 1867. They were, however, the subject of fundamental amendments in 1912 (vote on the Child Protection Act), 1989 (rape) and 1994 (see above).

119. Following the tragic events of the summer of 1996, it became a matter of urgency to analyse provisions of criminal law concerning offences against children.

120. Research was conducted on the basis of the recommendations of the National Commission against Sexual Exploitation of Children, a study carried out at the request of the Minister for Justice by the team of Professor Jacobs of the Faculty of Law of the Free University of Liège, and, with regard to domestic violence and sexual mutilation, on studies conducted at the request of the Minister for Employment and Labour, responsible for the policy of equal opportunity, by Professor Hutsebaut of the Catholic University of Louvain and Professor Kellens of the Free University of Liège.

121. In order to complement the legal analysis, an extremely detailed questionnaire (of 38 questions) was sent, through the senior presidents and procurators-general at the courts of appeal, to magistrates and public prosecutors involved in cases of abduction and ill-treatment of children. The legal analysis needed to be supplemented with lessons drawn from their own law-enforcement experience. The consultation also provided the opportunity to discover the status of practices relating to the hearing of child victims (use of audio-visual recordings, availability of appropriate premises, presence of a person of trust, assistance from an external psychologist responsible for interpreting the child's speech, etc.).

122. It was on the basis of those three actions that a bill was prepared and approved by the Council of Ministers on 18 December 1998. The Commission of Justice of the Chamber adopted it on 2 March 1999.

123. This bill is meant to strengthen child protection in the Criminal Code; it was discussed in a working group composed of representatives of the Justice and Employment and Labour cabinets, experts, and members of the National Commission.

124. It includes provisions strengthening the protection of children against the various forms of sexual exploitation, abduction, neglect and starvation, and abandonment; among other things it extends the notion of trafficking in human beings to exploitation of the victim's minor status; it also extends to minors aged 16-17 the protections provided for those under 16 in the areas of exploitation of debauchery and prostitution, as well as child pornography.

125. The principle of extraterritoriality, which should, inter alia, allow prosecution of "sex tourism" and human-traffic networks will become more flexible with withdrawal of the requirement of similar criminal provisions in the two countries concerned and will be extended to acts of public immorality committed against minors over 16; the perpetrator need not be in Belgium.

126. The intention of the bill is to continue efforts to prevent recidivism by sex offenders. In the first place, it spells out and improves the regime of banning orders on persons convicted of immoral acts from working in any area involving children, stipulating the date from which the order runs, providing for a

sanction in the event that the suspension is not respected, and spelling out the types of activities prohibited. Next, the bill extends to cases of suspension of the terms of the sentence, the suspended sentence, probation and release of convicted persons the requirement of prior notification of a specialized service of counselling and treatment of sex offenders, as well as the modalities of monitoring the counselling or treatment of the persons concerned, as provided for in the Act of 5 March 1998 on conditional release.

127. The Government also decided to amend the criminal procedure to keep pace with the specific needs of child victims of sexual offences: on the one hand, it will spell out the modalities and legal consequences of audio-visual recordings of the hearing of minor victims of sexual offences; on the other, it will provide for derogation from the principle of oral hearings in the Court of Assize so as to avoid confronting the child with the accused at the hearing.

128. The bill includes a draft bill on domestic physical and sexual violence, proposed by the Minister for Employment and Labour, who is responsible for the policy of equal opportunity, in consultation with the Minister for Justice.

129. In order to make it clear that acts of indecent assault and rape must be deemed to be sexual aggression against persons rather than against law and order, the bill characterizes these offences as "sexual attacks", and indecent assault is replaced by the new notion of violation of sexual integrity.

130. The bill defines indecent assault as any sexual act committed against or with the assistance of, a person who does not consent to it. Consent or lack of consent to a sexual act is the main criterion of the crime. In order to strengthen the protection of individuals, especially minors, the bill also explicitly stipulates the situations in which consent to a sexual act cannot be envisaged.

131. The bill also provides for additional protection from sexual acts with minors, whether within or outside the family context.

132. As for sexual acts with minors outside the family context, the bill stipulates that a minor under 14 cannot consent to a sexual act. In other words, any sexual act committed against a minor under 14, with or without the minor's consent, is an offence punishable under criminal law. The bill also intends to relax ultimate protection from the age of 14. Sexual contacts between young people are entirely outside the criminal sphere, unless a question of abuse arises. In the case of relations with an adult, specific protection is provided for minors aged 14-16. The point of this special protection is that in the event of a considerable age difference (more than five years), the assumption is that the young person could not give valid consent to sex acts.

133. Lastly, all minors under 18 also receive additional protection: the bill provides that a sexual act with a minor made possible by abuse of authority, trust or dependence is a crime.

134. All sexual acts with minors within the family are explicitly prohibited. In that regard, the age of 16 is increased to 18 in order to extend protection to all minors. This means that any sexual act committed against a minor by persons living in the family are automatically punishable, whether the victim consented or not. The age-old concept of family has been adapted to social developments. Accordingly, the bill extends the notion to adoptive and foster parents, brothers and sisters, visiting relatives, parents-in-law and any other person who normally lives with the minor and has authority over him or her.

135. The bill also takes up the aggravating circumstances of deliberate assault, linked to the fact that the authors of violence are children against their parents and parents against their children.

136. Genital mutilation occupies an important place in assaults against women and girls; such violence is specifically aimed at women and girls. The Criminal Code currently permits prosecution for deliberate assault resulting in the loss of an organ; the bill sets forth a specific provision unequivocally criminalizing genital mutilation.

137. Lastly, the bill amends the criminal provisions relating to professional secrecy. Under the current Act, doctors, carers and social workers, among others, are bound by professional secrecy. They may not disclose information relating to physical and sexual violence. Although the law provides for two exceptions (in testimony before a judge and in cases of assistance to persons in need), their legal situation is ambiguous.

138. Better legal security and better protection of minors call for more transparent legal provisions. The bill provides persons normally bound by professional secrecy with the opportunity to disclose to the appropriate services acts of physical and sexual violence and genital mutilation committed against a minor under 14, without being liable to prosecution.

h) Children's recorded statements

139. A working group on children's statements has been set up on the initiative of the Ministry of Justice. Its aim is to assess the situation and prepare, for the police and magistrates, a guideline standardizing the techniques for taking recorded statements in criminal proceedings (mainly with regard to child victims of immoral acts).

140. The working group was formed in order to encourage video recordings and techniques that do not smack of an official hearing where children are concerned; they guarantee better quality of the hearing, avoid the need for multiple and repeated hearings, provide greater transparency and more reliable statements from children.

141. The judicial authorities are trained at the same time so as better to conduct the hearings.

142. The bill concerning the criminal protection of minors has been expanded to include the principle of audio-visual recording of a minor's hearing in the Code of Criminal Procedure and to stipulate the modalities and legal consequences. When, for establishing the truth, the Court deems it necessary summon a minor, his or her appearance will take the form of a video conference in order to prevent the child from coming face to face with the alleged abuser.

i) Cooperation agreements on assistance to victims

143. Cooperation agreements have been negotiated between the Federal Government and the Flemish Community and between the Federal Government and the French Community and the Walloon region.

144. Inasmuch as powers regarding assistance to victims are shared between the State and the Communities, cooperation was deemed necessary for effective coordination of the resources for victim assistance.

2. In the Flemish Community

145. The Flemish legislator aims at greater conformity of Flemish regulations with the policy implemented by the authorities and with the provisions of the Convention.

146. On 17 October 1997, two important Decrees of 15 July 1997 entered into force in the Flemish Community. The first concerns the drawing up of the impact report on the child and monitoring of Government policy with regard to children's rights. The second was for the creation of a commission on the rights of the child, as well as the position of commissioner for the rights of the child. These two Decrees were prepared in the spirit of the Convention, on the joint initiative of five Flemish representatives of the various democratic political parties. While the impact report on the child was somewhat anticipatory, the monitoring of Government policy regarding the rights of the child and the creation of a commission on the rights of the child were mainly inspired by the Convention. For this reason, these latest initiatives will be discussed in Part II (below); at the same time, it is opportune to examine the impact report on the child in this part.

147. The Decree defines the impact report on the child as one describing the child's situation in his immediate milieu and the foreseeable impact consequences of a planned decision and its alternatives on the situation. It was pointed out during the parliamentary discussions that it is the family that must be regarded as the child's immediate milieu. This is in keeping with the Convention. The decree states that the impact report on the child must contain at least the following information:

- the effect the planned decision would have on the child;
- alternative solutions to the proposed decision, particularly a description of measures envisaged in order to avoid the adverse consequences of the decision, to restrict and, if possible, remedy them;
- a list of the difficulties encountered in the collection of the requisite data.

148. The obligation to establish an impact report on the child, as provided in the Decree, means that each draft decree must be accompanied by such a report when it is submitted to the Flemish Parliament, so that the planned decision is clearly and directly in the child's interests. The Government may depart from this provision on the advice of a competent commission. This commission comprises five permanent members, three of whom are nominated on the basis of their experience in impact reports on children, and two on the basis of their familiarity with children's rights, as stated in the Convention (Executive Decree of 14 July 1998). The members of the commission have already been appointed.

149. The decree explicitly provides that the decision to waive the obligation to draw up an impact report on the child will be evaluated by Parliament during the debate and vote on the acceptance or rejection of the draft decree.

150. Article 11 of the Decree provides for gradual enforcement of the obligation to establish an impact report on the child, so that the Decree will come into force in its entirety on 17 October 2002. This gradual enforcement will make for progressive acquisition of the necessary experience and competence.

151. The Decrees of 15 July 1997, directly inspired by the Convention, are not alone in their explicit reference to the Convention. Mention should be made of the Decree of 12 May 1998 concerning the recognition of national youth organizations, which includes among the general conditions of recognition: "with regard to its activities and statutes, to accept the democratic principles and rules and to sign the European Convention on Human Rights and the international Convention on the Rights of the Child". The statement provides that if a national youth association does not respect the aforementioned Conventions in its normal functioning, the recognition may be withdrawn. The decree recently approved by the Flemish Parliament on supervision centres for pupils also explicitly requires them to respect the Convention (see below, Part IV. D).

152. The remarks about special assistance to young people, contained in the initial report - paragraphs 15 to 19 - still apply.

153. The Decree of 24 July 1991 concerning general social assistance, mentioned in paragraphs 39 to 46 of the initial report, have meanwhile been replaced by the Decree of 19 December 1997. One of the underlying principles is to make social workers more accessible to young people and children and to give more detailed attention to the preventive aspect of front-line care for children and young people as well. In this context, the following actions are envisaged: organization of training and coaching to strengthen children's and young people's moral resistance, the introduction of methods focusing on early detection of sexual harassment and violence against young people, continued development of young people's active commitment to preventive assistance to youth of the same age, development of a specifically child-centred attitude with a view to making information accessible to all children, especially with regard to their rights.

154. In accordance with the Committee's recommendations, a consultation with NGOs represented in the Child Rights Coalition took place in the Flemish Community on 17 September 1998, under the leadership of the Minister coordinating children's rights. The Commissioner for the Rights of the Child attended as an observer. Following this consultation, the verdict was in favour of increased self-criticism by the authorities and greater diversification of the issues and powers discussed. There was a frank exchange of ideas on the question of whether the Child Rights Coalition should not be structurally and financially supported by the Flemish authorities.

3. In the German-language Community

155. The Decree on assistance to children announced in the initial report, was adopted by the Council of the German-language Community on 20 March 1995, published in the *Moniteur belge* on 26 April 1995 and entered into force on 1 May 1995. It gives rise to a right to organized assistance for any young person living in the German-language Community.

156. The aim of this decree is to provide assistance to young people in danger, through an agreement between the interested parties and the Youth Assistance Service. Measures can be imposed by a juvenile court only after the failure of voluntary aid.

157. The Youth Assistance Council was created by this same decree; it is composed of 19 representatives of the social services involved with children and young people. This Council takes and coordinates youth-assistance initiatives and supervises their implementation. It studies young people's development and produces a report on assistance to young people at the end of its term of office (six years). It proffers advice at the request of the Government of the Community or on its own initiative. The Council's committee supervises the work of the Youth Assistance Service and confirms or rejects the Service's decisions for individual measures.

B. Existing or planned mechanisms at national or local level for coordinating policies relating to children and for monitoring the implementation of the Convention

1. At the federal level

a) The National Commission on the Rights of the Child

158. On 13 September 1996, the Council of Ministers decided to create, at the federal level, a National Commission on the Rights of the Child. It requested the Minister for Foreign Affairs and the Minister for Justice to prepare the establishment of the Commission and to report once more to the Council of Ministers.

159. Following two preparatory meetings, on 6 December 1996 the Council of Ministers gave its assent to the establishment of the proposed body.

160. The National Commission on the Rights of the Child comprises permanent members, representing departments directly concerned with child-rights issues.

161. They include a bureau composed of the Minister for Foreign Affairs and the Minister for Justice, who take turns to chair the meetings, as well as the Minister for the Interior and those of the three Communities.

162. The main mission of the National Commission is to prepare the forthcoming five-yearly reports that Belgium is required to submit to the Committee on the Rights of the Child. However, it may be entrusted with a number of particular issues at the request of the Inter-ministerial Conference on the Protection of the Rights of the Child.

163. For instance, the Conference has already requested the National Commission to study Belgian interpretative declarations on the Convention on the Rights of the Child and the question of young people's freedom of expression. It has also asked the National Commission to give consideration to children's social and economic rights and labour rights.

164. Another project was for the National Commission to secure the cooperative efforts of parastatal bodies, non-governmental organizations and experts.

b) The Inter-ministerial Conference on the Protection of the Rights of the Child

165. The Inter-ministerial Conference on the Protection of the Rights of the Child was established at the Communities' request, for the purpose of studying certain topics that posed particular difficulties, requiring better coordination of the various levels of authority, and possible policy decisions.

166. The Council of Ministers gave its assent to the principle of creating the Conference on 15 November 1996. It was set up by the Consultation Committee on 18 December 1996 and inaugurated on 5 March 1997. It decided to place the following topics on its agenda:

a) Ill-treatment of children and sexual abuse:

- prevention policy;
- assistance to and treatment of perpetrators and victims;
- training of the intervening parties;

b) Finalization of a statistical tool for a coherent approach to child policy;

c) Youth assistance and protection:

- monitoring of federal and Community laws (including the Protection of Young Persons Act with regard to offenders, particularly the issue of placement in a detention institution);

- the Brussels issue of assistance to young people, the Act of 1965 having always been enforced in the absence of an order of the General Assembly of the Joint Community Commission;

- coordination and consistency of social assistance and support policies among the various levels of authority;

d) National and international adoption;

e) Right to personal relationships (including in cases of separation, imprisonment, international abduction, etc.).

c) Scientific studies

167. A number of ongoing scientific research projects were undertaken in response to the request by the Prime Minister's Federal Department of Scientific, Technical and Cultural Services.

168. Two studies were conducted as part of the programme, "The citizen and the protection of rights".

169. The first, entitled "From the right to protection to the protection of the law. The link between protection of young people and the rights of the child, an exemplary case", was conducted by Professor Verhellen of Ghent University. It identified the most pressing tasks involved in an effective protection policy on rights, comprising:

a) Establishment of a system for taking account of the interests of children;

b) A systematic effort at human rights education, both for children and adults with regard to information, especially in connection with children's rights;

c) Continued development of scientific investigation.

170. The second study, "Guarantees during court proceedings for minors, and alternative procedures in the treatment of young offenders", was conducted by Professor Eliaerts of the Brussels Free University. The purpose of this study is to provide better protection for the rights of minors, on the one hand, regarding cultural, social and economic development and, on the other, the influence of the internationalization of young people's rights. After resituating and clarifying the procedure before the juvenile court, the researchers distinguished between the specific guarantees of the trial and the more fundamental guarantees of the law.

171. At the present time, in the framework of the "Inter-university poles of attraction", a study on "The rights of the child. An inter-university scientific team is conducting Implementation and monitoring through participation". Participating in this project are Professor Verhellen and Professor Vande Lanotte of the Ghent University, Professor Tulkens of the Catholic University of Louvain-la-Neuve and Professor Alen of the Catholic University of Louvain. With all the activities and from the multidisciplinary viewpoint, the purpose of the research is to focus on implementation and monitoring of international and national regulations on promotion and protection of human rights and children's rights. The study deals with six different points, namely human rights education, participation, rights protection, normative scope, legal significance and binding force and protection of young people.

2. In the French Community

172. By Order of 24 July 1997, the Government of the French Community established an Observatory on Children, Youth and Assistance to Young People.

173. This Observatory serves the French Community as an objective evaluation tool and is responsible, inter alia, for preparing an up-to-date list of problems affecting children and young people, keeping an up-to-date list of services and bodies, and promoting any initiative in that regard. It is also to express views on all questions relating to children and assistance to young people and assess the implementation of the Convention on the Rights of the Child.

174. Another Executive Decree of the Government of the French Community of 22 December 1997 amends the Executive Decree of 10 July 1991 creating a Delegate-General for children's rights and assistance to young people. It simplifies the name of the institution to "Delegate-General for Children's Rights of the French Community" and increased from five to nine the staff assigned to the Delegate-General, including criminologists and jurists.

175. On 16 March 1998 the French Community also adopted a Decree centred on the following priority fields:

a) the obligation for all psychological, social and medical personnel working in child institutions to render assistance to an ill-treated child or to the person in whose home they suspect the ill-treatment occurred and, if they are unable to render this assistance to the child on their own, to call upon the authorities of the French Community, such as the counsellor for assistance to your people, the SOS Children teams or the psychological, social and medical centres;

b) officialization of the telephone helpline for children, which is constantly available to take calls from children;

c) organization and general coordination of the fight against ill-treatment by judicial district from an official standing agency;

d) obligatory training in the approach to ill-treatment of children for all actors from child-related sectors.

176. In Brussels, the College of the French Community Commission created an Observatory on Children by Executive Decree of 27 July 1991. This is a permanent programme of action defining and developing the specific place occupied by children in the Brussels-Capital region. Through it, special indicators for children aged 0-12 concerning the qualitative and quantitative aspects of the establishments that receive have been drawn up. Its aims are to provide a reliable view of the situation of children in the Brussels-Capital region and to contribute to the development of an explicit child policy.

177. The Observatory has been recognized as a fulcrum of Community policy by a convention signed in June 1994.

3. In the Flemish Community

178. A number of initiatives were taken in Flanders during the period under consideration in an effort to coordinate activities in favour of children and monitor implementation of the Convention.

a) Coordination Minister for activities relating to child-rights issues

179. Given the particular importance of such issues, on 18 February 1997 the Flemish Government appointed one of its own to serve as Coordination Minister. He is the Minister responsible for assistance to young people and will undertake general coordination of activities, with a view to global follow-up of child-rights issues. Accordingly, the Coordination Minister is responsible for reports on the implementation of the Convention. The Family and Social Welfare Department is required to support the Minister.

b) Rights of the Child working group

180. On the initiative of the above-mentioned Coordination Minister, an interdepartmental working group *Kinderrechten* (Rights of the Child) was set up within the Flemish Community. This working group comprises representatives of the Flemish ministers, departments of the Ministry of the Flemish Community, and Flemish public bodies. The Child-Rights Unit of the contact point, Family and Social Welfare Department, serves as the secretariat of the working group.

181. The working group's meetings are restricted to sectors that have an obvious link with children's rights. Hence, the social-assistance and public-health sectors are represented by the Minister's administration and cabinet, and education and the media by the cabinet. Other policy areas are rarely represented.

c) Monitoring of government policy on children's rights

182. The Decree of 15 July 1997 instituting the impact report on the child is a second facet that monitors government policy on respect for the Convention. This second facet requires the Government to establish two types of written annual reports.

183. The annual report on implementation of the Convention must be transmitted to the Flemish Parliament and to the Commissioner for the Rights of the Child by 30 September of each year. In accordance with the Decree, it must contain at least the following information:

- measures taken for the exercise of the rights enshrined in the Convention;
- any useful information concerning respect for the principle of non-discrimination against children and the right of the child to subscribe to certain deeds and his right to participation;
- health and welfare indicators;
- aspects relating to education, leisure and cultural activities;
- special measures for child protection;
- annual evaluation of the impact reports on the child and the connection between the impact reports on the child and the impact reports on emancipation.

It must also be accompanied by specific political conclusions formulated by the Government.

184. Pursuant to the Decree, a point of contact or a child-rights specialist official was appointed in each administration and each Flemish public institution linked in any way with child-rights issues. In this context, the Flemish Community Commission was not forgotten. Attention should be drawn to the fact that

Flemish administration or public institution concerned must not have any direct link with the rights of the child. Indeed, a single link suffices. This will help each body acquire child-rights expertise applicable in their respective areas of competence. The contact points were recently designated. They have only just made it into this report, so that the information provided could be expanded, as requested by the NGOs.

185. With the institution of contact points on children's rights within the various political areas of the Flemish administration, the Flemish Community is weaving a network intended to enhance the status of the child.

186. The second type of report concerns respect for the rights enshrined in the Convention in the countries and regions with which the Flemish Community has concluded a general and exclusive cooperation agreement, approved by decree. That report must be submitted to Parliament before 31 March and comprises documents relating to the countries in question, papers made public by the Committee on the Rights of the Child. However, the fact that the Committee itself draws up a report only every two years for the General Assembly of the United Nations could make it difficult for the Government to Furnish Parliament with new data each year. This report must also be accompanied by specific policy conclusions formulated by the Government.

d) Creation of a Commission on the Rights of the Child

187. The first Flemish Commissioner for the Rights of the Child assumed duty on 16 June 1998. The appointment was made by the President of the Flemish Parliament following a scrupulous selection procedure carried out by the Permanent Recruitment Secretariat (which is the federal public body responsible for recruiting statutory officials), which guaranteed the objectivity of the procedure.

188. The first Flemish Commissioner for the Rights of the Child is a woman. A jurist and criminologist by training, she also worked as a pro deo lawyer at the Centre for Children's Rights in Ghent and at the *Kinderrechtswinkel* (a body comprising Dutch-speaking NGOs active in the field of children's rights). She went on to coordinate the mediation service of Child and Family, an institution in which she also served as a child-rights specialist.

189. During the preparation of the Decree by Parliament, it paid particular attention to the Committee's recommendation to Belgium to establish "a permanent mechanism of coordination, evaluation, monitoring and follow-up to ensure that the Convention is fully implemented, at the federal and Community levels". It could also refer to a similar recommendation by the Council of Europe.

190. Following the Norwegian example, the Flemish Parliament opted for a Commission the Rights of the Child that formed part of the Parliament rather than the Government, making it a more democratic body and consequently endowing it with greater independence, which is also guaranteed for the budget and staff.

191. The Decree entrusts the Commissioner with three main tasks, all intended to defend the interests of the child:

- respect for the Convention on the Rights of the Child;
- follow-up, analysis, evaluation and dissemination of the child's living conditions;
- defence of children's rights, interests and needs.

192. In the performance of those tasks, the Commissioner, on the basis of the Convention, is required to pay special attention to the following:

- dialogue with the child and with organizations active in the field of individual and collective services to children, and defence of their interests;

- children's social participation and accessibility for all children to services and organizations that concern them;

- monitoring conformity with the Convention of the acts, decrees, executive decrees and orders, including the procedure regulations on matters falling within the competence of the Flemish Community or the Flemish region;

- dissemination of information on the content of the Convention, particularly in the interests of the child.

193. In performing those tasks, the Commissioner is empowered to investigate, on her own initiative or at the request of the Flemish Parliament, any question relating to respect for the Convention and to examine any complaint of failure to respect the Convention and, as far as possible, refer it to the competent institutions. The Commissioner enjoys a broad ex officio right, which she may invoke at any moment, to gain access to data on any subject in her remit. The Commissioner, like the members of her staff, are bound by professional secrecy.

194. The Commissioner submits to the President of the Flemish Parliament an annual report on the way in which she defends children's rights and serves their interests. The report is discussed in plenary session. On request, she may also submit intermediate reports to the President for discussion in plenary. She transmits her reports to the federal authorities so that they can take them into account when preparing the five-yearly report to the Committee on the Rights of the Child.

e) *Gezin en Maatschappelijk Welzijn* (Family and Social Welfare) Department

195. The Family and Social Welfare Department of the Ministry of the Flemish Community was reorganized by Executive Decree of 17 March 1996 of the Flemish Community. Its role as a unit for information on children's rights within the Flemish Government was confirmed, a mission it had already been fulfilling since the autumn of 1997 at the request of the Coordination Minister. The official, who for that purpose had been allowed to work half-time, is responsible for supporting the Coordination Minister.

196. Within the Family and Social Welfare Department, the *Centrum Voor Bevolkings-en Gezinsstudies* (Centre for Studies on Population and the Family) examines questions relating to the population and the family. It renders opinions on population and family policies; it plays an important role in the preparation of the impact reports on the child and the impact reports on the family as an assessment instrument both in the Flemish and the international contexts.

197. The Family and Social Welfare Department participates in welfare policy and the issue of opinions by labour representatives, particularly through the agencies *Gezins-en Welzijnsraad* (Family and Social Welfare Council), *Vlaamse Intersectorale Commissie Armoedebestrijding* (Flemish Intersectoral Commission to Combat Poverty), *Interdepartementale Commissie Ethnisch-Culturele Minderheden* (Interdepartmental Commission on Ethnic and Cultural Minorities) and the Consultative Appeal Commission. A group dealing with youth is active in the Flemish Intersectoral Commission to Combat Poverty. It is a multidisciplinary group, comprising officials (youth leadership, special assistance to young people and education), experts (*De Cirkel*) and coordination bodies in the assistance sector.

f) *Kind en Gezin* (Child and Family)

198. The Flemish public institution *Kind en Gezin* (Flemish equivalent of the Births and Children Office) has been reorganized. As of May 1996, it comprises three basic sections: *Preventieve Zorg* (Preventive Assistance), *Kinderopvang* (Child Reception) and *Positie van het Kind* (Position of the Child), general-services, computer-science and computer-technology sections, as well as five provincial sections. The preventive assistance section and the child-reception section (including extra-curricular activities), focuses attention on children aged 0-3 and 0-12 respectively.

199. Specialized have been appointed in the institution's main fields of activity. They devote themselves to more specific subjects (child reception, ill-treatment, children's rights, etc.). Throughout the institution, but more particularly in the new section *Positie van het Kind* (Position of the Child), priority attention is assigned to the child, both as an individual and as a member of the social category of children, and with regard his rights, interests and needs. Together with the content of the Convention, this principle is the leitmotiv of the institution's functioning.

200. The mediation service referred to in the initial report has, after several changes of staff and the appointment of its Coordinator as the first Flemish Commissioner for the Rights of the Child, been reduced to a single mediation official. To clarify what was said about this mediation unit in the initial report (para. 31), attention should be drawn to the fact that the Child and Family mediation unit must not be considered to be the only child-mediation unit in Flanders. That task was recently conferred on the Commission on the Rights of the Child (see above). The Child and Family ombudsman service functions under the Commissioner's authority.

201. Each year Child and Family publishes an activity report in which, since the 1995 report, a chapter is devoted to data concerning the universe of children, including demographic data, composition of the families in which they live, contacts with parents, the reception and school situations, disadvantaged children, parents' professional situation, contacts with grandparents, television habits and other aspects of young children's daily life (up to age 12).

C. Measures taken or foreseen to make the principles and provisions of the Convention widely known to adults and children alike (art. 42)

1. At the federal level

202. A compilation was published on the initiative of the Ministry of Justice. It includes the initial report of Belgium, the summary records of the Committee's meetings and the Committee's concluding observations on the report. This compilation is available to the public in the three national languages.

203. Moreover, the Ministry of Justice has also co-financed with each Community a brochure on the prevention of sexual exploitation of children.

2. In the French Community

204. While information on children's rights is one of the specific missions of the Delegate-General for Children's Rights, a more specific activity deserves mention: the operation Lawyer at School. This activity, initiated by the National Bar Association, which operates in primary class 6 and secondary form 6, focused its attention on children's rights in 1996 and 1997.

205. In Brussels, all the work of the Observatory on Children is designed to create in-depth and continually updated knowledge of the status of children in the Brussels-Capital region. Two major lines of

action may be underscored. The first aims at greater accessibility of all children to Community reception centres. The second develops campaigns for raising awareness of the child's place in the city. Known as child-place contracts, these campaigns are founded on partnership with the public authorities at various levels and with the associations sector.

3. In the Flemish Community

206. The *Vlaams Centrum voor de Bevordering van het Welzijn van Kinderen en Gezinnen* (Flemish Centre for the Promotion of Child and Family Welfare) was created by Decision of 13 November 1994 of the Flemish Government (*Moniteur belge* of 7 February 1995) and it is a not-for-profit legal entity. It is composed, on an equal basis, of the *Gezinswetenschappelijk Documentatiecentrum* (Centre for Scientific Documentation on the Family) linked to the Catholic University of Louvain, and of the *Centrum voor de rechten van het Kind* (Centre for the Rights of the Child) linked to the University of Ghent. The Centre's overall mission is independently to ensure the welfare of children and families in the Flemish Community. It is responsible for the annual organization of a Children's Rights Day and a Day of the Family, in keeping with the United Nations' agenda.

207. The Ghent centre plays an important role in child-rights training, both in and outside Flanders. It organizes courses for students and persons working with children (postgraduate training). It is also closely involved in the organization of international training programmes (International Interdisciplinary Course on Children's Rights, ERASMUS/SOCRATES Network on Children's Rights). Flemish officials also attend courses at the Centre as part of their professional duties.

208. The Family and Social Welfare Department took the following initiatives:

a) Three study mornings in 1998 for staff on children's rights;

b) In collaboration with the Ghent Centre, organization of a study day devoted to children's rights for persons involved in youth special assistance (17 October 1997);

c) Practical training in children's rights for consultants to the committees for special assistance to young people, which, on order of the pertinent coordinated Decrees, are responsible for prevention;

d) Subsidies to certain projects:

- *Minorius*: improved juridical position of minors in youth special assistance institutions; preparation of a code on minors, assistants and parents; the right to assistance and the rights therein;

- *Kinderrechtswinkel* (a body comprising all Dutch-speaking NGOs active in the field of children's rights);

- *Kinderrechten en de rol van het gezin* (The rights of the child and the role of the family);

- The training project *De rechten van het kind: een taak voor iedereen* (The rights of the child: a universal mission), a joint project of the Belgian Committee for UNICEF and other Flemish and French-speaking non-governmental organizations, with subsidies from the Flemish and French Communities;

- *Over de muren heen: gedetineerden, naastbestaanden en hum kinderen* (Beyond walls: detainees, their relatives and their children);

- *Het kind van de rekening* (The child of the accounts), composition of a book of pictures;

- *Kinderrechtenfestival* (Child rights festival).

209. Brochures were prepared for young people and are intended for clients of the service of special assistance to young people; they give young people clear information about their rights (e.g. *Jij en de jeugdrechtbank* (You and the juvenile court). They were produced in collaboration with the *Kinderrechtswinkels* and the President of the Union of Juvenile Court Magistrates. Some brochures for parents are planned.

210. The *Kinderrechtswinkels* recently joined Child and Family in order to guarantee the continuity of their work.

211. Within Child and Family, personnel training and awareness-raising (for instance, training of child-rights team leaders) stressed the fact that the message contained in the Convention on the Rights of the Child must also be disseminated, in addition to information on education, food and care. In that context, several pamphlets were put together and widely disseminated and in them the spirit and content of the Convention are clearly explained with the aid of daily family situations: *Ouder zijn, niet zo gemakkelijk* (Parents, a difficult task), which uses games to explain why infants behave as they do, and *Het boekje dat NEE zegt* (The book that says NO), which deals with children's right to express their views on certain topics concerning them.

212. Lastly, attention should be drawn to the fact that one of the main tasks of the Commissioner for Children's Rights (see above) is "to disseminate information concerning the content of the Convention, particularly in the interests of the child".

4. In the German-language Community

213. An information campaign on the Convention was inaugurated in 1998.

214. With regard to young people, the youth information services are responsible for implementing this programme.

III. DEFINITION OF THE CHILD

A. Definition

1. At the federal level

215. The bill on criminal protection of minors adds to the Criminal Code a definition of minority as it is to be interpreted in the Criminal Code and particular Acts and regulations. The minor is defined as "an individual who has not yet attained the age of 18 years". This definition is based on the concern to avoid reference to the personal status of a young person of foreign nationality in determining whether he is a minor or not.

2. In the French Community

216. In the French Community, the Decree of 4 March 1991 concerning youth assistance provides a definition of the child which corresponds to that of the Convention, when it speaks of a young person aged under 18. This Decree's field of application extends to children whose health or safety is endangered or whose conditions of education are jeopardized by their behaviour or that of their families or relatives, even if by their personal status they have attained majority before the age of 18.

3. In the Flemish Community

217. In accordance with the Flemish Government's Decision of 13 July 1994 on recognition of, and subsidies to, youth special assistance institutions, a minor is deemed to be any individual receiving assistance from the Youth Special Assistance Committee up to the age of 20 or 21, depending on the assistance granted (20 for persons living in a room under constant supervision, 20 for individuals staying at a person's home or in a family of trust or in an appropriate open establishment, and 21 for persons living alone but receiving support). The person concerned may, however, decline any further assistance or request general social assistance. Since 1 January 1995 the Executive Decree of 13 July 1994 has replaced the Flemish Government's Decision of 22 May 1991 referred to in the initial report.

B. Legal minimum age for the exercise of certain rights and obligations

1. Consultation of a lawyer without parental consent

a) In the French Community

218. Under the law in the French Community, the youth-rights services organize duty rosters of legal advisers for minors. They take over certain judicial activities to help young people, especially in juvenile court proceedings, actions under educational law, etc.

219. There is also provision for the youth assistance counsellor to authorize assumption of the costs relating to judicial proceedings or court actions as part of assistance programmes established with minors and families.

220. In the medical domain, psychological, social and medical centres work in close cooperation with schools, and maintain duty rosters. Minors are therefore able to consult the centres on both medical and psychological matters.

b) In the German-language Community

221. There is no legally established minimum age. Children and young people of any age may consult the psychosocial and medical centres that organize duty rosters in schools. This regularly occurs, especially in the medical, social and psychological area.

222. In the legal domain, youth information services organize consultations accessible free of charge to children, young people and their parents, with the support of the Ministry of the Community.

223. On the basis of a Decree of 20 March 1995 on youth assistance, the Youth Assistance Service, when asked for help, must support and advise the young person and other persons concerned and inform them of their rights and obligations.

224. The Decree of 20 March 1995 requires that young persons should be heard on any matter concerning them by the Youth Assistance Service from the age of 12 and that they should give their written consent to any measure concerning them.

2. Freedom to testify before the courts

225. The Act of 30 June 1994 amending Article 931 of the Judicial Code and the provisions relating to divorce (*Moniteur belge* of 21 July 1994) expanded the Judicial Code so as to implement article 12 of the Convention on the Rights of the Child.

226. Henceforth, in any procedure concerning them, minors capable of due discernment may, at their request or by decision of the judge, be heard, in the absence of the parties, by the judge or by the person designated to do so by the judge.

227. When the minor so requests the judge or the Crown Procurator, the hearing may only be ruled out by a decision on special grounds, on the basis of the child's lack of due discernment. If the judge imposes the hearing, the minor may refuse to be heard.

228. Minors are heard alone unless the judge decides that they should be assisted in their own interest; the hearing of a minor does not confer on him or her the status of party to the proceedings; it takes place wherever the judge deems appropriate; a record of the hearing is attached to the file of the proceedings and no copy can be issued to the parties.

229. The Protection of Young Persons Act of 8 April 1965 now contains a new article 56 bis providing for the juvenile court to summon a minor over the age of 12 to be heard in civil proceedings when the question is one of authority over his person, administration of his property, the exercise of visiting rights or the designation of a legal representative. It must be stressed that the judge may not delegate his task of hearing the child; however, he freely decides on the modalities of the hearing, including the place and time. The young person must be entirely free to make a personal statement or be silent. Should the minor not appear, the juvenile court may summon him if it so deems appropriate.

230. It emerges from articles 1290 and 1293 of the Judicial Code, amended by the above-mentioned Act of 30 June 1994, that even in the case of proceedings in a divorce by mutual consent of both spouses, the judge may decide, of his own accord, to hear the minor against the parents' wishes, in accordance with the provisions of the new article 931 of the Judicial Code. In those circumstances, if the hearing of a child shows that the measures adopted by the parents concerning him or her are not in his or her interest, the judge may propose that the parents alter them, or even oblige them to do so. Since the reform introduced by the Act of 20 May 1997, the judge may exercise those powers even without first hearing the child.

231. On the matter of adoption, the new draft legislation provides that, as things stand at the moment, the age from which an individual, if not deemed to lack discernment, is not under judicial disability or in a state of prolonged minority, must give his consent to any adoption proposed for him should be lowered from 15 to 12. The court should also hear him. In this area, the child's views become a determining criterion earlier than under the current legislation. Various measures also aim to guarantee that children's consent reflects their real feelings and is freely expressed, whether the adoption procedure takes place in Belgium or the child is sent abroad. If the child is under 12, the provision is that if the procedure takes place in Belgium he or she must be free to express his opinion in a manner similar to that described above (art. 931 of the Judicial Code).

3. Deprivation of liberty: imprisonment

232. See Chapter IX.B (Children in conflict with the law), Section 2.

IV. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

1. At the federal level

a) Establishment of paternal and maternal filiation by recognition

233. Paragraph 3, subparagraph 1, of article 319 of the Civil Code concerning paternal recognition provides that, if the child is a non-emancipated minor, the recognition is only admissible with the prior consent of the mother. Subparagraph 2 provides that the child's prior consent is also required if he or she is 15 years of age.

234. The Court of Arbitration, in its ruling No. 36/96 of 6 June 1996 (*Moniteur belge* of 10 July 1996), stated that the fact that emancipated 15-year-olds may not refuse consent to recognition by a woman, while they may do so in the case of recognition by a man, runs counter to the principle of equality and non-discrimination enshrined in articles 10 and 11 of the Constitution.

235. It is pertinent to point out that rulings on preliminary matters by the Court of Arbitration have only limited authority. The legal provisions in question continue to exist and continue to form part of the legal order. However, a judge may decide not to invoke them if he considers that the question of constitutionality raised before him is identical to that decided by the Court of Arbitration.

b) The status of young foreigners with regard to the protection of young persons

236. The Centre for Equal Opportunity and the Fight Against Racism maintains that past investigations show that young foreigners are not treated the same as young nationals where the protection of young persons is concerned. The former are allegedly more readily subjected to stricter measures and, in particular, have in practice less easy access to various forms of support and are more readily placed in institutions.

237. Steps involving intercultural mediators (unfortunately all too rare) are being taken to put forward a suitable alternative solution.

2. In the French Community

238. In the French Community, article 3 of the Decree of 4 March 1991 concerning assistance to young people institutes an objective right to specialist help for any young person in difficulty or danger. This assistance must enable the young person or child to develop in conditions of equal opportunity for a life in keeping with human dignity. The comment on this article specifies that this objective is conceived in the spirit of the Convention on the Rights of the Child.

239. The Code of Ethics, adopted in 1997, under article 4 of the same Decree, is based on this fundamental principle of non-discrimination; the same is true of the general regulation of public institutions, whether open or closed, for the protection of young people, as foreseen in article 16, a regulation also adopted in 1997.

240. The result is that actors lending support, under this Decree, are required to provide special assistance to young people and children, even if they are in the country illegally, without making any distinction on the basis of their own characteristics or those of their families.

241. Likewise, the Births and Children Office (ONE) ensures that the services which they approve or control should protect children against all forms of discrimination. This takes the form of specific measures to help make services accessible to the general public: diversity of services, free consultations, parents' income-related financial contribution to the reception services, training of personnel on the ground in issues such as extreme poverty and immigration.

3. In the Flemish Community

242. To supplement paragraph 83 of the initial report, we may point out that a non-discrimination clause comparable to the one in force in the regulations of *Kind en Gezin* (Child and Family) also appears in other regulations relating to special assistance to young people, disabled persons, radio and television broadcasts, etc., as well as in certain decrees now in force in the health-care and welfare sector.

243. Within the *Bijzondere Jeugdbijstand* (Youth Special Assistance) Division, agreements were concluded with certain immigrant-assistance teams, which support the special youth-assistance services and institutions as part of their support for national minors. In 1998, the subsidies were increased from BF 7,675,000 to 12,675,000, some of which was used to extend the field of action of existing teams and create a team for the Flemish Brabant province and for Brussels, so that the entire Flemish territory now has access to the services provided by these teams. the Ghent team also received subsidies from the provincial administration of Eastern Flanders. Certain prevention projects focusing on vulnerable target groups are also under way in this sector.

244. In the *Jeugdwerk* (Youth leadership) sector, it was found that the participation of the poorest children and young people and that of the disabled, the ill-educated or immigrants was not always easy and remained somewhat rare. A study should be conducted on the subject in order to obtain an in-depth evaluation and determine what measures should be taken.

245. On the basis of the Decree of 9 June 1993 regulating subsidies to communal administrations and to the Flemish Community Commission for implementing a youth-support policy, it was requested, as part of the 1999-2001 community policy plan, that the disadvantaged social situation should be studied. Enforcement of an Order of the Flemish Government of 21 April 1998 concerning the granting of an additional subsidy to the community administrations for implementing a youth-support policy for socially disadvantaged children and youth (*Moniteur belge* of 12 June 1998) is yet to be assessed.

246. The Decree of 17 November 1997 governing the granting of subsidies to the provincial administrations for implementing a youth-support policy requires the incentives of the provincial pilot plan for youth-support, and the opportunities offered to hard-to-reach target groups (the disabled, unskilled, poor, etc.) to be demonstrated.

247. The Decree of 12 May 1998 concerning the approval of national youth organizations mentions of four categories of particular target groups. These are young people who, owing to poverty, low level of education, handicap or immigrant origin, are at a social disadvantage. The commentary accompanying the Decree shows that work with a special target group will not be approved and subsidized as such unless the objectives, method and programme clearly show that the work is likely to favour participation. Complementary programmes focusing on young people in compulsory and part-time education are also

accepted. Given the employment problem, holders of an upper-secondary vocational certificate or diploma may also be considered to be under-educated.

248. In Child and Family, additional initiatives are taken on behalf of persons requiring extra assistance, such as illegal residents, nomads, immigrants and disadvantaged persons.

249. The Department of Education has taken numerous initiatives to prevent discrimination against young immigrants.

a) Declaration of non-discrimination

250. This declaration, signed on 15 July 1993 by the Flemish Minister for Education and the coordination bodies of the organizing authorities, aims at providing a solution to the absence of spontaneous integration of immigrant pupils into the education system.

251. The first part of the non-discrimination declaration provides that education must have an intercultural dimension and include all pupils. The signatories undertook to introduce this intercultural dimension in both the content and organization of education. Next, the coordination organs of the organizing authorities committed themselves to devising a standard code that will explain how these principles are translated into the education scheme itself.

252. The second part of the declaration concerns the presence of immigrants in schools. There are plans to organize a local consultation seeking a proportionally more representative presence within the commune. This must be prepared by the various organizing authorities in the communes and will be established by agreement.

253. Through the non-discrimination declaration, the coordination organs of the organizing authorities also undertook to deal, in common consultation, with complaints of discrimination. If the problem finds no satisfactory solution at the local level, the complaint may be transmitted to the *Vlaamse Onderwijsraad* (Flemish Education Council), which is the evaluation and mediation commission that transmits the file together with an opinion to the coordination organ. When the complaint cannot be resolved satisfactorily or in the necessary time frame, the education inspectorate takes up the problem and an inquiry is opened.

254. In primary education, 26 communes comprising many immigrants have already approved non-discrimination agreements involving some 640 schools. In secondary education, there are 12 communes involving some 267 schools that have approved them.

b) Reception of newly-arrived immigrants of non-Dutch mother tongue into the education system

255. The purpose of this reception policy is to provide newly-arrived immigrants to our country with a sufficient knowledge of Dutch to promote their social integration. To that end, an additional number of class hours and an allowance are granted to primary and secondary schools for each newly-arrived immigrant of non-Dutch mother tongue. In order to gain entrance to these reception centres, the pupil must not have been born in Belgium, must not hold Belgian or Dutch nationality, must not have Dutch as a mother tongue and must not have been taught in Dutch for an entire academic year. He must also be insufficiently fluent in the language taught to be able to follow the regular courses successfully.

c) Extra teaching of Dutch in normal courses

256. This extra tuition is part of the priority education policy. Under certain conditions, schools may obtain extra class hours to be used for intercultural education, learning of the Dutch language or prevention and solution of developmental or study problems.

257. The initiatives taken in the context of this priority education policy is designed for children belonging to the target groups. These are pupils whose maternal grandmother was not born in Belgium and holds neither Belgian nor Dutch nationality by birth. In addition to this criterion of descent, there is a social criterion: the mother had, at the most, received education up to the end of the school year during which she reached the age of 18. This definition of the term pupil belonging to target groups is designed for a wider group of pupils than those covered by education for new arrivals.

d) Schools' ability to choose to teach in the person's own language and culture (OETC)

258. In primary and secondary education (including special education), a school may apply for an OETC teacher, following consultation with the parents and when the demand is sufficient. The purpose is to facilitate the integration of immigrants by including a limited number of hours devoted to their own language and culture in the syllabus.

259. The European Community has opened the way to Member States by subsidizing certain OETC projects. Teachers are recruited and paid through the embassy or consulate services.

260. OETC is meant for all immigrant groups: it is proposed de facto for Italian, Spanish, Greek, Turkish, Moroccan, Aramaic and Hebrew. Some 50 primary schools and nine secondary schools are involved in this project.

B. Best interests of the child (art. 3)

1. At the federal level

261. In all decisions concerning children, their best interests must be a prime consideration. However, it should be noted that the concept of best interests of the child is not set forth as such in our legislation. The Civil Code uses the form "interests of the child", but this difference in terminology has no legal import (see also above, paras. 221-224).

a) Divorce proceedings

262. The Act of 30 June 1994 amending Article 931 of the Judicial Code and the provisions relating to divorce proceedings and the Act of 20 May 1997 amending the Judicial Code and the Civil Code as they related to divorce proceedings (*Moniteur belge* of 27 June 1997) have considerably reworked these procedures in an effort at simplification and humanization, and with concern for effectiveness. Since these legislative amendments, the principle of best interests of the child has been explicitly mentioned in certain divorce provisions.

i) Divorce by mutual consent

263. From now on, parties only appear have to twice before the Court of First Instance to announce their wish for a divorce to the President of the Court of First Instance or the judge performing that duty.

264. In advance, the parties must have submitted to the Court a request containing their agreements on a divorce by mutual consent. These agreements must contain the measures concerning minor children with regard to parental authority, administration of the children's property and the right to personal relationships, and each of the parties' contribution to the maintenance, education and proper training of the children. The Crown Procurator issues an opinion on the content of the agreements relating to minor children. When they first appear before the judge, he may propose that they alter the measures concerning their minor children, which seem to him to be contrary to their interests. He may decide ex officio to hear the children, in accordance with article 931, paragraphs 3 to 7, of the Judicial Code. The judge may order the deletion or amendment of provisions contained in the prior agreements, which are manifestly contrary to the interests of the minor children.

265. Provision is made for the revision and modification of the agreements. When the spouses testify to new and unforeseeable circumstances in their situation, the circumstances of one or the other of them or of their children, they may submit, during the proceedings, a proposal for amendment of their initial agreements to the judge. The competent judge may always review provisions concerning children (parental authority and maintenance contribution) after the divorce. If the situation changes after the divorce, the parties are therefore no longer bound perennially by the content of pre-divorce agreements.

266. With these legislative modifications, the interests of the child are taken into account throughout the procedure of divorce by mutual consent and even after the pronouncement of the divorce, if the situation were to change.

267. Even before the reform introduced by the Act of 30 June 1994, the majority case-law had admitted the possibility of a judicial review of agreements relating to children when their interests were seriously threatened but, paradoxically, at the same time as the case-law enshrined this principle of review, the Act of 30 June 1994 was more restrictive, subjecting the judicial review to the need for new and unforeseeable circumstances which considerably altered the situation of the children. On the one hand, the concept of unforeseeable circumstances is more restrictive and, on the other, a change in the parents' situation, such as loss of employment or increase in the income of the parent owing maintenance, is not taken into consideration. The law therefore created discrimination with regard to the children of parents who had divorced for a specific reason, children whose situation could be changed in their interests alone.

268. The Act of 20 May 1997 subjected the review of agreements relating to children to the emergence of new circumstances independent of the will of the parties and substantially altering their situation or that of their children. This law also provided that the judge, in granting the divorce, recognized the measures relating to minor children. These measures are now an integral part of the judgement and are equally binding. Consequently, when the agreements are privately made, the parties may not appeal to the courts for them to be enforced.

269. Authors are divided on the question as to whether this new provision, aimed at any later amendment of the agreements relating to children, must receive the Court's approval.

(ii) Divorce for a specific reason

270. The Acts of 30 June 1994 and 20 May 1997 also amended the procedure of divorce for a specific reason.

271. It will be noted that it is now possible to have the judge at the hearing introducing the divorce confirm a total or partial agreement by the parties concerning the provisional measures relating to the person and effects of children and their maintenance. If there is no agreement, the judge refers the case to be heard by the President deciding the case on trial in chambers. The President of the Court (or the judge

performing those functions), deciding in chambers on the provisional measures relating to the person and effects of the children during the divorce proceedings, must take account of the children's expressed opinions (in the conditions provided for in Article 931, paragraphs 3-7 of the Judicial Code) and of their interests.

272. The Juvenile Court, the natural judge of parental authority and the child-parent relationship, is now competent from the moment of the transcription of the divorce judgement (article 387 bis of the Civil Code).

b) Adoption

273. As the legislation now stands, adoption must be based on fair motives. The Court required to decide on adoption must, when it has assessed the motive, take account of all legitimate interests, first and foremost the best interests of the child.

274. The bill now being prepared for ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption of 29 May 1993 (see below, art. 21) makes explicit reference in a number of provisions to the best interests of a child and to the fundamental rights which with children are endowed in international law. In the wake of the Convention, the attention given to the interests of the child is even greater.

c) Parental authority

275. The Act of 13 April 1995 concerning the joint exercise of parental authority is entirely based on the interests of the child, although they are not explicitly mentioned in the texts.

276. It will be noted, however, that article 374, paragraph 2, of the Civil Code authorizes the judge to entrust the exercise of parental authority exclusively to one of the parents when he deems that an agreement on certain matters relating to the child (housing, health, education, etc.) is contrary to the child's interests.

277. It is with those interests in mind that the Juvenile Court may, at the request of one or other of the parents, or the Crown Procurator, order or modify any provision relating to parental authority (article 387 bis of the Civil Code) and that, in default of agreement between the parties, he can grant the exercise of that right to the grandparents, or any other person who can prove a special emotional link, to enjoy a personal relationship with the child (article 375 bis of the Civil Code).

2. In the French Community

278. Each of the provisions of the code of ethics applicable to the youth-assistance sector enshrines the principle whereby all persons must act in the interests of the beneficiary.

279. Regarding adoption as well, Article 50 of the Decree concerning Assistance to Youth, which deals with the recognition of adoption services, establishes that adoption must take place with respect for the fundamental rights guaranteed in the Convention on the Rights of the Child. The Order of 19 July 1991 concerning the recognition of adoption parties, which enforced this article of the Decree, was largely inspired by the principles contained in article 21 of the Convention and in the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption. Since then, the best interests of the child must be the prime concern of such bodies and of all recognized services in the youth-assistance sector.

280. In all its regulations, the Births and Children Office (ONE) ensures respect for the interests of the child, his pace of life, his safety and projects' suitability to his level of development.

281. In the child-reception sector for which the ONE is competent, application of this principle calls for particular vigilance. The preponderance of initiatives and the diversification of financing sources rely on sometimes contradictory logic (employment, work flexibility, child-reception) and should not prejudice the interests of the child. A special effort needs to be made to ensure the coordination of the initiatives and the monitoring of the quality of services on offer, including the age of the children concerned.

282. A draft amendment of the Decree establishing the Births and Children Office is being studied. Among other things it will entrust to the Office the task of defining quality criteria for receiving children aged 0-12.

3. In the Flemish Community

283. Reference was made in paragraph 93 of the initial report to decrees governing special assistance to young people. Article 23, paragraph 2, as well as other provisions in Chapter IV of these coordinated decrees, entered into force on 27 September 1994.

284. The establishment of compulsory drafting of an impact report on the child (see above) is one significant example of the form the Flemish Community wishes to give to the child's interests at the structural level, including by decree.

285. On 10 February 1997, the *Jolijn* line was installed in the Youth Special Assistance section of the Family and Social Welfare Department of the Ministry of the Flemish Community. *Jolijn* is a telephone line that allows children and parents interested in special assistance to young people to obtain information and lodge complaints. The purpose of this line is to provide, as part of the special assistance to young people, opportunities for young people and parents to participate in the modalities and quality of the assistance on offer. Hence, the possibility of lodging complaints is provided for in an organized framework in which priority is given to the interests of the child. The initial results show that it is parents and third parties that most avail themselves of this opportunity. It is less frequently used by young people.

286. Thanks to a local offer of some 6,000 quite varied initiatives for motivating young people, which can be freely implemented, youth mobilization in Flanders adopts a proactive approach that works in favour of the interests of children and young people. This mobilization takes the form of various sociocultural initiatives aimed at groups of young people during their leisure time, organized with the educational support of special youth associations or local public authorities (Decree of 9 June 1993 governing the granting of subsidies to communal administrations and to the Flemish Community Commission for implementing a youth-mobilization policy).

C. The right to development (art. 6)

In the Flemish Community

287. The psychological, medical and social (PMS) centres work in close collaboration with schools.

288. These centres help parents and children with problems and give advice. The decision on the measures to be taken is left to the parents' or the pupil's discretion. There is also access to PMS centres when education problems arise.

289. The centres possess a team of specialists, psychologists, educationists, psychology assistants, doctors, nurses and social workers. Also available is complete documentation on existing studies and training courses in day and evening courses, scholarships and vocational skills training. The PMS centres cooperate with the schools on study support. All these activities are free and confidential.

290. The centres are accessible every working day of the year except official holidays, during the Christmas and Easter holidays and during part of the summer vacation and are open to all interested persons. Interpreting assistance is available.

291. In the future, pupil-supervision centres that will include school medical examinations (see below) will replace these centres.

D. Respect for the views of the child (art. 12)

1. At the federal level

292. Concerning free testimony to the courts, see above, (Part II.B). The question of the right of asylum is explained in Part IX.A.1 below.

2. In the French Community

293. With regard to institutionalization, increasingly numerous initiatives are emerging to allow children to express themselves not only about their own situations, but also on group life. Active methods and institutional practices of meetings set up in certain private housing institutions have been emulated in other institutions.

294. The overall regulations for public institutions for the protection of young persons (IPPJ) guarantees that the young person entrusted to them plays an active part in the relevant programme; he is also invited to meetings called to draw up written reports concerning him, so that he can be heard and informed on the subject of these reports.

295. The Code of Ethics applicable to the youth-assistance sector ensures that the beneficiary completely understands the need, nature and purpose of the assistance and its consequences and that he can then exercise his rights. Proposals and decisions concerning that assistance must be formulated in a comprehensible and legible language.

3. In the Flemish Community

296. The Flemish Decrees of 15 July 1997 referred to in Part I, concerning respectively the Commission on the Rights of the Child and the impact report on the child and monitoring government policy on respect of children's rights, is designed to ensure that adequate importance is assigned to the views of the child, within the sphere of the Flemish authorities' competence.

297. The Flemish Parliament recently adopted a Decree aimed at integrating psychosocial and medical centres and teams responsible for school medical examinations into some 100 pupil-supervision centres. Each centre is required to respond to any supervision request from a parent or child, on condition that the latter is attending a school supervised by the centre, and that the request falls with the supervision offer that the centre must propose under the Decree. A school may not request a centre to supervise a pupil unless there is parental consent if the pupil is under 14. The pupil personally consents if he or she is 14 or more. The Decree also provides for parents or a pupil over 14 to refuse to allow a doctor of the centre to carry out a general or specific examination.

298. A structural mode of participation was prepared, both for Community education and subsidized education. While local boards were established for community education, the *Medenzeggenschap* (Participation) Decree institutionalized the participation boards in subsidized education. The membership of these participation structures is relatively similar: principals of schools or representatives of the constituent authority, teachers' and staff representatives, representatives of parents and pupils and representatives of local, social, economic and cultural groups.

299. Compared with the 1988 ARGO Decree, the new Special Decree of 14 July 1998 on community education provides for wider pupil involvement in secondary education, while leaving the school board to bear all the responsibility. Under article 10 of the Decree, the school board determines the manner in which pupils may participate in its functioning; to that end, it may establish a council of student delegates.

300. In subsidized education, pupils form a particular category of participants. They may be heard on questions concerning them, and the school is required to submit any amendment of the school regulations for the parents' signature.

301. However, it must be admitted that the minor pupil enjoys only an accessory role under the domestic recourse procedures for discipline and evaluation in education. However, it is to be hoped that in the case-law of the Council of State there are indications that do not totally exclude interruption of procedural incapacity. It might deduced, in effect, from this case-law that the independent procedural capacity of the minor is admitted as part of a personal right granted in accordance with the law to the concerned minor, as long as he has attained the age where he can be assumed to possess sufficient discernment to exercise this right and provided that his legal representatives do not wish to or cannot intervene or that there is a potential conflict of interests with them.

302. On the other hand, a project of the King Baudouin Foundation concerning pupil participation, entitled *Jouw school is onze school. Naar een leerlingbetrokken school* (Your school is our school, towards a school of concerned pupils) is being implemented in education. For the last five years, the King Baudouin Foundation, in collaboration with the Department of Education and education networks, has been proposing to secondary schools an offer relating to pupils' participation in school. This offer is directly aimed at pupils, whether they are members or not of the pupils' council and to supporters interested in pupil participation. Four hundred secondary schools have already, in one way or another, given their support. The purpose of the project is to establish whether it is desirable to implement on a permanent basis an initiative on the pupil participation plan.

303. Respect for the opinion of children means for the *Centrum voor Bevolkings - en Gezinsstudies* (Centre for Population and Family Studies) that with the assistance of appropriate research methods they can be associated in an adult manner with the study that concerns them. The study conducted by the centre has shown the credibility of children when they speak about themselves and their life situations.

4. In the German-language Community

304. In the field of youth voluntary assistance, the Decree of 20 March 1995 stipulates that no individual assistance measure can be decided unless the people concerned have first been heard, unless it is not possible because of the person's age, state of health or in case of extreme emergency. Any person who is heard may be accompanied by a person of his or her choice. In the interests of the young person, separate interviews may be held.

305. At the same time, a new decree on educational reform is being prepared. This draft Decree provides for a structure for the participation of pupils from secondary education.

V. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

306. In Belgian law, the name of a person stems from filiation; when there is a marriage, paternal filiation stems from the presumption established in article 315 of the Civil Code.

307. If paternal and maternal filiations are established simultaneously, the child bears the name of its father. If they are established successively, the child bears the name of its mother, but the parents may together declare to the registrar of births that the child will bear the father's name. However, article 335, paragraph 3, subparagraph 2, of the Civil Code confers on the spouse of an adulterous father the right to refuse the latter's transmission of his name to adulterine children through a declaration to the registrar of births and deaths. By an Order of 19 May 1993 (*Moniteur belge* of 9 June 1993), the Court of Arbitration considered that this provision made a distinction between adulterine children a patre and the other children whose maternal filiation was established prior to the paternal filiation. The Court pointed out that the change of name was no more than an effect of filiation and that in order for it to be established, the legislator had intended to accord priority to the child's fundamental right to respect for its family life vis-à-vis the interests of the conjugal family. The Court implicitly deemed that the effects of filiation must be appreciated in the light of this fundamental right of the child.

308. In the matter of full adoption, the rules concerning the patronymic are similar; on the other hand, in the event of simple adoption, Belgian law offers several possibilities. For example, the adopted child may choose to take the name of the adoptive parent, keep its own name or keep its own name followed by the name of the adoptive parent. A bill concerning reform of the procedure governing adoption is currently being studied. It contains innovations regarding the patronymic, in that it provides for a fourth possibility: the adopted child may choose to take the name of the adoptive parent, followed by its own name.

B. Freedom of expression (art. 13)

1. In the French Community

309. A decision of the Government of the French Community of 24 August 1997 established, on the proposal of the Minister for Culture, the French-speaking Youth Council which is a key advisory organ providing young people with the assurance that they will be heard by the Government and public opinion on all problems which they consider to concern them and whenever decisions concerning young people are taken.

310. This Council also has the responsibility to liaise among all the recognized youth organizations, local councils and public authorities.

311. On the other hand, the French Community subsidizes youth organizations that contribute to the development, among young people, of their personal responsibilities and skills, with a view to helping them become active and critical responsible citizens (CRAC) within society. These organizations must devise and carry out their activities with respect for democratic values and rules and the principles enshrined in the Universal Declaration of Human Rights.

312. The Youth Section of the Department of Culture also develops programmes and operations encouraging young people to express themselves. One such example operation is Forum J, which allows young people, whether organized or not, to express their opinions on any subject that touches them.

2. In the Flemish Community

313. In the Decree of 9 June 1993 governing the granting of subsidies to communal administrations and to the Flemish Community Commission for implementing a local policy on youth mobilization, it was intended that children and young people should be involved in the planning of such local policy, which must be based on their needs and requirements. In this context, the difficulty lies in the quest for good participation and forms of involvement of the different groups of children and young people, given the limited resources, in an effective implementation of aims and priorities (possibly in various phases). In recent years this participation emerged on three occasions with varying degrees of success. Fortunately, the Minister did not follow up the communal authorities' suggestion to abolish it.

314. Increasingly, children are becoming personally involved in the projects carried out by assistants implementing the Decrees concerning special assistance to young people. Children's participation is increasing in prevention projects. Thus, the Brussels committee for special assistance to young people is conducting an experimental study among children in large towns. The Halle-Vilvorde committee organized a day for young people aged 12-15 during which they could express themselves in words, dance, painting or sound. Older participants were invited to attend.

315. During 1998, a campaign was launched (pamphlets, brochures, work files, televised spots and exercise material for children based on the programme) on the initiative of the Minister responsible for Children's Rights and the Family and Social Welfare Department. Its purpose was to attract attention to children's right to participate and become involved. It was supervised by a committee of experts composed of representatives of *Algemeen Welzijnswerk* (General Social Assistance), of the Youth Special Assistance, youth support, Child and Family, *Volksontwikkeling* (Popular development) and the Rights of the Child contact point of the Family and Social Welfare Department. The campaign was conducted in close collaboration with the *Kind en Samenleving* (Child and Society) Study Centre.

3. In the German-language Community

316. The German-language Youth Council is composed of delegates from the various centres, organizations and political parties for young people in the German-language Community.

317. Its aims are to define the interests of all young people in the Community, promote all activities likely to guarantee the participation of young people in decisions or measures concerning them and to coordinate youth work in the Community.

318. In order to realize its objectives, the Youth Council:

- takes an interest in young people's problems, reactions, needs and expectations;
- takes a stance regarding these questions through reports;
- takes measures to study and resolve youth problems;
- collaborates with the French- and Dutch-speaking Youth Councils;
- facilitates inter-Community and international contacts among young people, for instance by proposing exchange programmes;
- affords contacts and exchanges among the various youth organizations;

- organizes training courses and events that are open to all young people, for instance the Youth Day;
- pursues an active information policy via information centres, the youth broadcast Contra-Re and the monthly *Einblick*;
- allows young people to express their views in these publications.

C. Access to information (art. 17)

1. In the French Community

319. Regarding assistance to young people, it should be pointed out that the code of ethics applicable to this sector specifies that the beneficiary has the right to be fully informed about the material, medical and psycho-social assistance available.

320. The Decree of 16 March 1998 on assistance to ill-treated children requires schools, public-interest organizations, institutions (including the Belgian radio and television company of the French Community) and the associations subsidized or recognized by the French Community to disseminate information for children concerning the child helpline services and the bodies competent to deal with ill-treatment. These bodies are the youth assistance counsellors, the SOS Children teams, the psychological-medical-social (PMS) centres and the School Medical Inspectorate centres.

2. In the Flemish Community

321. In Flanders, children and young people have access to information via the *Jongeren Informatiepunten* (Youth Information Points) created in connection with youth mobilization.

322. There are also several specific publications for children and young people. Youth-mobilization publications include: De *Jongerengids* (Young People's Guide), *Loslopend Wild* (Compilation of measures and regulations relating to safe, environment-friendly camping), a publication issued in 1996 in collaboration with the King Baudouin Foundation and the *Algemene Dienst voor Jeugdtoerisme* (General youth tourism service) and the *Repertorium Kampeercentra* (List of youth campsites and hostels that conform to the most basic standards of hygiene, published in 1996).

323. With regard to education, during the 1997-1998 school year, the Flemish Community began monthly publications of *Klasse voor Ouders* and *Klasse voor Jongeren* (Class for parents and Class for children). The articles deal with education as well as social problems and current news. A central topic is developed each month, for instance drugs, leisure or study choices. It is prepared in a manner that is easy for children and parents to understand.

324. The Flemish authorities also encourage children to read:

- free access to libraries for children under 14;
- 75% of the 2,200 lectures given by children's authors, at an annual cost of 11 million Belgian francs, are given in schools at the various levels of education: nursery, primary and secondary. It has had a considerable impact; in Europe, Flemish literature for children and young people is very widely sold and loaned, and the content and translation are of very high quality. They are easily accessible since no contribution is required.

325. The Flemish Community also encourages the use of information and communication technology (ICT) in education:

a) During the 1997-1998 school year, 175 Flemish schools were the targets of a Flemish Government project to promote the Internet among teachers as a channel of communication and a means of obtaining educational information;

b) During the 1997-1998 school year, the *Rivieren* project, an ICT project for environmental education at the third stage of primary education, organized workshops for teachers. The project was implemented in collaboration with the *Vlaamse Radio en Televisie* (Flemish Radio and Television) and the King Baudouin Foundation; the Department of Education closely follows developments in the fields of information and communication technologies and the policy conducted in that regard in other European countries (European Schoolnet, Netd@ays 98 of the European Commission);

c) The Department of Education is also active in the field of educational software: Dutch-Flemish program matrix (in collaboration with the Netherlands, educational software databank for primary education); project designed to provide additional support to a number of pilot schools using educational software in their general work for children who are behind or are having learning difficulties (beginning in the 1998-1999 school year);

d) Multimedia equipment: on 2 June 1998, the Flemish Government approved the PC/KD programme. The purpose of this programme is to provide by 2002 for the last three years of primary education and the throughout secondary education multimedia PCs at the rate of one computer per 10 pupils (intermediate objective: 1 PC for 15 pupils by 2000);

e) Study of the existence and use of information and communication technologies in primary and secondary schools, commissioned from the University of Ghent;

f) Initiatives of third parties: *Digikids* project, an initiative designed to familiarize young people and teachers with ICT through Internet training, software and free connections (in collaboration with the private sector and the media) and *Initiatief PC* (PC Initiative), the purpose of which is to recycle the private sector's obsolete PCs (a Flemish employers' initiative).

326. Radio and television must certainly not be ignored in the framework of the right to information. The *Vlaamse Radio en Televisie* (Flemish Radio and Television) is one of the first channels to have signed, on 26 September 1995, the Children's Television Charter. Under this Charter, children's programmes must not only be amusing, but must also afford them maximum physical, mental and social development.

327. The Flemish Community implements a dual policy in the area of audio-visual material.

328. First and foremost, protection measures are established. Specifically, radio and television companies may not broadcast programmes capable of seriously harming the physical, mental or moral development of minors, especially programmes containing scenes of pornography or wanton violence. This provision applies unless broadcasting times are chosen or technical measures are taken so as to ensure that minors normally do not watch or listen to such programmes, which, if not encoded, must be preceded by a spoken warning. These measures are actually a translation of the provisions of a European directive, *Television without Borders*.

329. In addition to the provisions on programme content, media regulations also provide protection of minors in advertising, tele-sales and sponsorship announcements. Specifically, no advertisement may be broadcast in close proximity to children's programmes, in other words five minutes before and after them.

The age limit is set at 12 years in the definition of children's programmes. The Flemish regulation is stricter than the European directive, which provides that only children's programmes of under 30 minutes' duration may not be interrupted by advertisements.

330. The *Vlaams Commissariaat voor de Media* (Flemish Media Commission) was created by Decree of 17 December 1997 in order to monitor enforcement of these measures.

331. The Flemish policy also comprises positive stimuli, in addition to protection and prohibition.

332. In its management contract with the Flemish Community, the *Vlaamse Radio en Televisie* (Flemish Radio and Television) was entrusted with the task of providing high-quality programmes, especially for children and young people. On 1 December 1997, it launched a new production, KETNET, which includes the youth information programme Studio K. KETNET is a production by and for young people, broadcasting 34 hours of programmes per week for children and teenagers. These broadcasts are voluntarily exempt from any publicity or sponsorship.

333. In 1998, the Flemish Community also established a prize for the best programme for young people and the *Fonds Film in Vlaanderen* (Films in Flanders Fund) subsidizes productions for children.

D. Freedom of thought, conscience and religion (art. 14)

1. In the French Community

334. In the French Community, this principle is mentioned in both the code of ethics applicable to the entire youth assistance sector and the general regulations on public youth-protection institutions. The latter provide that the young person is not only authorized to perform rites connected with his beliefs and the religion of his choice, but that the institution is also required to facilitate the performance of these rites, particularly with regard to diet and observance of fasting times.

2. In the Flemish Community

335. Freedom of thought, conscience and religion is guaranteed by various declarations of non-discrimination. There is also a broad array of initiatives in the different social-assistance sectors flowing from existing ideological and philosophical currents.

336. Paragraph 143 of the initial report made reference, in the framework of special assistance to young people, to a Flemish Government Order of 22 May 1991. That Order was replaced by an Order of 13 July 1994, under which minors must be able to continue their moral education and practise their religion where appropriate, in accordance with its precepts and requirements (article 11, D.4).

337. The non-discrimination measures and initiatives discussed in Part III (I) also guarantee the freedoms enshrined in article 14 of the Convention. In that regard, it should be pointed out that information on the minor's ideological, philosophical or religious convictions are often provided by the holder of parental authority, with the result that sufficient discernment is not always exercised in considering the convictions of the minor himself.

3. In the German-language Community

338. The Decree concerning assistance to young people of 20 March 1995 stipulates that any person contributing to the implementation of this Decree shall be required to respect the religious, philosophical and political convictions of the minor and the rights he or she is recognized to have.

E. Freedom of association and of peaceful assembly (art. 15)

1. In the French Community

339. When young people decide to form into a group in order to organize a cultural or sports activity, they may receive subsidies from the public authorities. Article 2, paragraph 1, of the Decree of 20 June 1980 establishes: "Organization of young people as understood in the present Decree refers to a voluntary association of physical or moral persons".

2. In the Flemish Community

340. Youth mobilization guarantees this freedom. It is defined as "sociocultural initiatives for youth groups, during their leisure, organized or with educational supervision by particular youth associations or municipal authorities".

F. Protection of privacy (art. 16)

1. In the French Community

341. In the French Community, the principle of respect for professional secrecy to which practitioners are held, is explicitly referred to in the code of ethics applicable to the youth-assistance sector.

342. Such respect must be interpreted as a contractual obligation to the beneficiary and guarantees the trust that he must be able to find among practitioners and services. Disclosure of information among persons held to secrecy is authorized within the necessary limits of the care provided.

343. As regards the general regulation of public institutions for the protection of young people, it guarantees secrecy of correspondence despite the fact that these institutions house only young offenders. Monitoring measures must be taken, in the presence of the young person, with regard to packages containing more than letters.

344. As the point of reference for child policy, ONE aims to give children visibility. As part of its medical and social prevention activities (including the fight against ill-treatment) and the reception of young children, it has decided to collect a large amount of data for evaluating the impact of its action. The compilation of these anonymous data is carried out in conformity with established privacy rules (Act of 8 December 1992: declaration of files, file controller, information given to the public concerned). Measures are also taken to ensure that the child's booklet and that of the future mother remain the property of the parents and remain confidential.

2. In the Flemish Community

345. Decrees relating to quality, applicable in the welfare and health sector in the Flemish Community, guarantee respect for privacy through the intervention of the aid and assistance services.

3. In the German-language Community

346. The Decree of 20 March 1995 concerning assistance to young people stipulates that, in the context of assistance to young people, all persons contributing to its implementation of is obliged to treat confidentially any information entrusted them in the performance of, or relating to their duties.

G. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37(a))

1. At the federal level

347. Minors under 16 at the time of the events may not be imprisoned. The only exception to this principle is article 53 of the Act of 8 April 1965 which provides for temporary placement in a detention centre for a maximum of 15 days. The repeal of that article 53 has already been envisaged in an article 53 bis voted by Parliament, which, however, has not yet fixed the date on which it should come into force.

348. For minors aged 16-18, the juvenile judge may relinquish the file and refer the youngster to the public prosecutor, who may decide to refer the case to the adult jurisdiction if he deems that the educational measures available are inadequate.

349. The death penalty was abolished in Belgium by the Act of 10 July 1996 and was replaced by either rigorous imprisonment for life or ordinary imprisonment for life. This abolition concerned adults only, however, because article 77 of the Criminal Code (abrogated by the Act of 10 July 1996) had earlier established for minors a legal ground for mitigation, which meant that they could not be sentenced to death.

350. Furthermore, the report of the National Commission for the Reform of Youth-Welfare Legislation (the Cornelis Commission), submitted before the abolition of the death penalty, proposed the introduction of a general ground for mitigation for minors, expanding that continued in article 77 of the Criminal Code. On the initiative of the Ministry of Justice, a working group was set up to prepare a preliminary draft law to reform the Protection of Young Persons Act. If this draft were to opt for maintaining the possibility of relinquishment, the situation of a minor subjected to such a measure would, in any event, be reconsidered so that any penalty to which he or she may be sentenced in the context of the relinquishment takes account of his or her special status as a minor.

2. In the Flemish Community

351. The Executive Decree of 13 July 1994 concerning measures relating to special assistance to young people provides that any penalty imposed on a minor must take personality factors into account and that no order can be given to inflict corporal punishment or withhold meals (see paragraph 159 of the initial report).

352. In institutions providing special assistance to young persons in the Flemish Community, a minor may be placed in solitary confinement only if absolutely necessary and for a maximum of five days. A minor in solitary confinement is placed under the direct charge of an educator. A special, reasoned authorization of the management is required for any prolongation of the period of isolation.

VI. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

1. At the federal level

353. Article 203 of the Civil Code was amended by the Act of 13 April 1995 concerning the joint exercise of parental authority (*Moniteur belge* of 24 May 1995). Under the new provision, "fathers and mothers are bound, to the best of their ability, to house, raise, monitor, educate and train their children". If the training is not completed, the obligation continues after the child's majority.

354. The new provision governs an effect of biological or adoptive filiation and applies to all parents. It contains two new duties: to the duty to support, educate and train their children is added the duty to house and monitor them. It has replaced the early criterion of adequate training with a quantitative criterion of proportionality. This criterion formerly applied only to divorced parents (Civil Code, art. 303, abrogated).

2. In the French Community

355. Parents are the natural educators of their children, and the various medical and social prevention services open to them must serve to enhance parental competence. Home visits by medical/social workers and individual or collective health education meetings facilitate the establishment of optimal conditions for strengthening parental competence. Reception services are deemed complementary to the family environment.

356. Various services are on offer in situations of family crisis. A reform of the crisis-reception sector (maternal homes, reception centres, day nurseries) is under study and is based on the following principles:

a) Subsidies must not lead to an extension of the stay of children or mothers beyond real needs;

b) Supervision and qualification standards must be spelled out (professionalization);

c) The quality of education must be appropriate to the child's needs and be regularly assessed;

d) Partnership with other childcare services must be promoted with a view to limiting the length of the stay;

e) No child must be placed in, or withdrawn from, a family because of poverty (cf. Report of the King Baudouin Foundation on poverty) and boarding facilities in sufficient numbers must be provided.

357. In a guideline note on reform of the youth-assistance sector dated 20 December 1996, the minister responsible for this issue outlined her intended policy for reviewing the standards for recognition of the private services normally available to young people. Starting from the principle that the interests of the child required that he should be brought up in the family as a matter of priority, this policy aims, above all, to diversify modes of admission to care, so as to afford support to parents and encourage young people in difficulty to remain in their family environment, as stipulated in the Decree of 4 March 1991 and the Convention on the Rights of the Child.

358. A general report on poverty conducted in 1994 by the King Baudouin Foundation at the request of the Minister for Social Integration showed that, despite declarations of intent formulated in recent texts inspired by the Convention, children were often still separated from their families on purely material grounds.

359. The French Community must therefore find the means to implement the options selected by conducting an in-depth reform of recognized private services taking charge of children in difficulty. To do so, it must, inter alia, substantially change not only the criteria for recognition of these services, but also the way in which they are subsidized, which remains, generally speaking, favourable to institutionalization, although it may include attempts at family reintegration under the guidance of the shelter institution. In this regard, the review of the Order of 7 December 1987 cited in paragraph 92 of the initial report is about to be finalized; it is the realization of the will expressed by the parent Minister to see the above-mentioned reform implemented.

3. In the Flemish Community

360. As a complement to what was stated in paragraph 163 of the initial report about the possibility of counselling in the home in the framework of the special assistance to young persons, the Order of 13 July 1994 provides for one guidance session per week on average, in principle in the family to which the minor belongs.

361. Parents may also put questions to *Kind en Gezin* (Child and Family) and regional nurses working in teams throughout Flanders are available to them. In each region, there is a house that is open daily and where parents may ask questions concerning food, care, education, certain medical problems, etc. The nurses may visit the parents of young children in their homes, and parents may go at regular intervals to the Consultatiebureau voor het Jonge Kind (Children's Consultation Office), where they will be helped by nurses and doctors (see Chapter IV.C).

362. On 15 September 1998, Child and Family and V*laams Fonds voor Sociale Integratie van Personen met een Handicap* (Flemish Fund for Social Integration of the Disabled) signed a protocol of cooperation on measures and the distribution of tasks relating to counselling for mentally disabled parents of young children. The protocol is intended for persons cared for by the *Begeleid Wonen* (Supervised Housing Services), namely the slightly mentally handicapped and their children (who are monitored by Child and Family). It should help to promote better coordination in the functioning of the various services. The objective is to ensure that the children of mentally handicapped parents who receive guidance form a *Begeleid Wonen* service can, as far as possible, live with their own families and be monitored for rapid detection of any potential developmental problems and to encourage the families to become more actively involved in their children's education.

363. The mission of the *Gezin en Welzijnsraad* (Family and Welfare Council), established on 6 April 1998, is to ensure follow-up of family and welfare policy and its developments, to identify society's family and welfare needs, to assess the measures provided in that sphere and make proposals. The *Commissie Gezinsbeleid* (Family Policy Commission) created in the framework of the Family and Welfare Council provides counselling for families in all relevant policy sectors. It focuses on the effects of family policy and is mainly intersectoral. Moreover, this Commission also advises on family policy as such.

4. In the German-language Community

364. The Service of Assistance to Young People studies all requests it receives. Under the Decree of 20 March 1995, it is bound, on any request for assistance, to support and counsel the young person and other interested persons and inform them of their rights and duties. Should the need arise, it steers the parties concerned towards the appropriate services for consultation, counselling, support, therapy or guidance.

365. The *Dienst für Kind und Familie* (Service for Children and the Family) offers its assistance to all families, from the birth of the child up to the age of 3. For some years it has been assigning priority to disadvantaged families or families at risk (families in which there is a risk of neglect or ill-treatment).

B. Joint obligation of both parents to raise their children (art. 18, paras. 1 and 2)

1. At the federal level

366. Joint exercise of parental authority. The Act of 13 April 1995 on the joint exercise of parental authority introduced in Belgium the legal principle of joint exercise of parental authority by both parents. This means that, as long as the exercise of parental authority is not organized according to different modalities by an agreement concluded between the mother and father or by a court ruling, the parents, whether or not they are married, separated, exercise jointly – that is to say, both parents (or even one equally with the other) – the various prerogatives of parental authority. The father and mother both enjoy custody of the child and, if they are separated, share that custody. Custody is no longer divided into a right of custody and visiting rights (or, according to the new terminology, a right to personal relations). Each parent also shares the right to raise the child and, if they are separated, plays his or her part in important educational decisions concerning the child. If, by an agreement concluded between the parents or by a court ruling, the exercise of parental authority is regulated differently, authority over the child can be divided, so that one parent has the right of custody and education, while the other continues to enjoy the right to a personal relationship and monitoring. The right to a personal relationship can be withdrawn only on very serious grounds.

367. When a father and mother jointly exercise authority over their child's person, they administer his property and represent him together. Otherwise, as a general rule, the person exercising that authority over the child has the sole right to administer the child's property and represent him, while the other maintains the right to monitor the administration.

368. Lastly, fathers and mothers responsible for administering their children's property are accountable for that property or the enjoyment of that property, it being understood that they have enjoyment until the children's majority or emancipation.

369. In this regard as in others, the child's interests is paramount in any decision or measure concerning him or her. The Act of 13 April 1995 grants the juvenile court the ability to order or amend, in the child's interests, at the request of the father and mother, or either of them, or of the Crown Procurator, any provision relating to parental authority, without prejudice to the competence of the interim relief judge in a case of divorce on specific grounds.

2. In the French Community

370. As for the sector of assistance to young persons, it must be added to what was stated in the initial report that the youth-assistance counsellor may only intervene with the parents' consent. Even when the assistance provided for in the Decree of 4 March 1991 on Assistance to Young Persons is imposed, the parents are associated with the decision via the director of assistance to young people. In all cases, assistance measures must, first and foremost, aim at supporting the parents in the exercise of their parental responsibilities, rather than at relieving them of those responsibilities by institutionalizing the child.

371. When the child's removal from the family environment is necessary in his own interests, youth-assistance counsellors and directors ensure, as far as possible, that the removal does not sever their ties and that the parents continue to enjoy the social advantages accessible to all families to help them exercise their responsibilities.

3. In the Flemish Community

372. With regard to paragraph 180 of the initial report, Child and Family, particularly the unit responsible for preventive health-care for children, is not active in rural areas alone. In towns, the institution specializes in urban issues. Regarding paragraph 182 of the initial report, it must be noted that the *Centra voor Kinderzorg en Gezinsondersteuning* (Childcare and Family Support Centres) and the *Diensten voor Private Gezinsplaatsing* (Placement in Private Families) have replaced crèches and reception centres. See annex for statistical data on the Childcare and Family Support Centres.

373. Child and Family recognizes and subsidizes the reception of, and assistance to, families in crisis. The aim of this service is to help them over a limited period. The care is both ambulatory and residential, but the aim is to give priority as far as possible to ambulatory family assistance.

374. The *Centra voor Integrale Gezinszorg* (Centres for Integral Family Care) provide ambulatory, out-patient, residential or semi-residential support for parents and children and future parents. This reception and support is designed to prevent the break-up of the family unit, increase the ability of the family members to bear burdens, the relationship-forming abilities, emancipation and social integration (see para. 183 of the initial report).

375. Family problems requiring prolonged monitoring are dealt with more substantially as part of the special assistance to young persons (see para. 189 of the initial report).

C. Separation from parents (art. 9)

1. At the federal level

a) Separation from parents and the right to a personal relationship with grandparents, or any other person who can prove a special emotional link

376. Reference must also be made to developments regarding article 3 on divorce.

377. Article 374, paragraph 4, of the Civil Code, included by the Act of 13 April 1995, enshrines the right of a parent who does not exercise parental authority to maintain a personal relationship with the child. This personal relationship may not be refused except for very serious reasons. A parent not exercising parental authority maintains the right to oversee the child's education. He or she may obtain, from the other parent or a third party, any information useful in that regard and may appeal to the juvenile court in the interests of the child.

378. The Act of 13 April 1995 amended article 302 of the Civil Code, which provided that following the dissolution of the marriage, in the absence of an agreement between the parties recognized by the court or in the absence of an order of the President, deciding the case in chambers, on the administration of children's persons and property, the administration falls to the one who obtained the divorce on special grounds ("blame"). As to divorce following a five-year separation, the judge decides, even ex officio, which of the two spouses would secure that administration.

379. Henceforth, after dissolution of a marriage by divorce, authority over the child's person and the administration of his or her property are exercised jointly by the father and mother or by the one to whom they were entrusted by decision of the judge in chambers, or the agreement of the parties at the preliminary hearing and approved by the judge, without prejudice to article 387 bis, included in the Belgian Civil Code by the Act of 13 April 1995.

380. Article 387 bis confirms, by and large, the juvenile court's competence in actions relating to parental authority. From now on, this Court may, at the request of both parents, of one or other of them, or of the Crown Procurator, order or amend any provision concerning parental authority. However, this regime is not prejudicial to the competence of the justice of the peace in regard to urgent and provisional measures during the marriage (article 223 of the Civil Code), or of the President of the Court of First Instance with regard to provisional measures ordered by him during the divorce proceedings.

381. The Act of 13 April 1995 introduced an article 375 bis into the Civil Code. This provision explicitly grants grandparents, or any third party that can prove a special emotional link to the child, the right to maintain a personal relationship with the child. In default of any agreement between the parties, the exercise of this right is regulated in the interests of the child by the juvenile court at the request of the parties or of the Crown Procurator.

b) Foreign children

382. Regarding a child who comes to stay in Belgium with one or other of his parents or a third person, the Aliens Office verifies the willingness of the parents or the other parent by requiring a document establishing guardianship of the child, or a document in which the parent or parents consent to the child's arrival in Belgium. If such consent cannot be obtained because the parent concerned has disappeared, the decision is taken in the best interests of the child.

383. When one of the parents is, exceptionally, kept pending repatriation in a closed centre for asylum-seekers whose applications have been refused or for illegal aliens, the child is informed, at his or her request, of the centre's location and visiting hours.

384. However, if the child himself has no right to stay in Belgium, the person accompanying him will be issued with an order to return him to his country, and measures will be taken to ensure that he is repatriated at the same time as his parent or parents.

385. Regarding unaccompanied minors under 16 not seeking asylum, the juvenile court is contacted. In Brussels, if no person to whom the child is verifiably related comes to find him, the judge decides to place the child in a specialized institution. For their part, the Communities have established a special procedure by decree. In parallel, intensive searches are conducted in the child's country of origin to find his parents or a specialized institution that can take the child in. If this search is successful, the child returns home accompanied.

2. In the French Community

386. The French Community is, in principle, competent to assist unaccompanied minors under 16. For the French Community, assistance to these young people must be subsidiary. The young people concerned must have access to specialized social assistance, in accordance with the Decree of 1991 on assistance to young persons. This Decree is still not in force in the Brussels-Capital region, on which territory the young people concerned are mostly to be found. Community decrees relating to assistance to young people, in default of an Order of the joint Community Commission, are not applicable in this region, which explains why the judicial authorities take charge of these situations.

387. Concerning in particular article 9, paragraph 3, of the Convention, which aims at respect for the right of the child who is separate from one or both parents to maintain personal relationships and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests, the French Community more specifically studied the question of maintaining personal relations between children and

an imprisoned parent, especially on the basis of the conclusions of a working group set up to discuss the matter by the Delegate-General for Children's Rights and the Births and Children Office.

388. This issue concerns both the question of reception of infants housed with their imprisoned mothers and that of the maintenance of contacts between a child and his or her imprisoned parent or parents. Various proposals were made.

389. Concerning the reception of infants with their imprisoned mother, priority recourse to alternatives to detention should be encouraged. In any event, if the infant must be housed with his imprisoned mother, certain penitentiary institutions must be equipped so as to foster the infant's development and to guarantee his security.

390. In particular, an assistance programme established on an experimental basis in 1996 by the youth assistance counsellor in Liège, in partnership with the prison and the Births and Children Office, made it possible to hire, from the youth assistance budget, a nursery nurse in the Lantin prison to help imprisoned mothers look after their children under three who stay with them, as well as paying nursery fees for those children outside the prison and their transport costs. Consultations were organized by the ONE in collaboration with the administration of the penitentiary institutions in the Lantin and St Gilles prisons.

391. Moreover, an association entitled Relais Enfant-Parent (Child-Parent Link) supported by the Houtman Fund is working on improving children's visiting conditions. Regarding the appointment of buildings to allow children to visit an imprisoned parent, an initiative of the King Baudouin Foundation, in collaboration with the Prisons Administration, supports projects in 12 prisons throughout Belgium.

392. As for the general prison regulations, the right of the child to maintain contact with his or her imprisoned parent must be more specifically recognized. Hence, when the children of imprisoned parents are older and are placed in the charge of the youth assistance services, the latter must ensure, unless instructed otherwise, that these children may visit their parents in prison. A training module for warders and wardresses is under study by the Prisons Administration and the Births and Children Office.

3. In the Flemish Community

393. In the context of special assistance to young people, positive trends are emerging for the period under consideration for this report: a large tendency towards voluntary assistance, increased ambulatory assistance, reduction of the duration of placement and more rapid passage (statistics attached).

394. In closed community establishments of special assistance to young people, the visiting rights of parents and persons of trust have been increased from once per weekend to two to three visits per week. Regarding the plan for organizing reception of parents and relatives in closed community establishments, greater attention is assigned to people: equipment of a children's corner, a survey among 30 minors and their families with a view to improving the reception, a welcome brochure, etc.

395. On the matter of divorce, the *Centra Algemeen Welzijnswerk* (General Social Assistance Centres) intervene in the interests of the child. Child and Family can also help parents through nurses in the event of divorce; it considers whether projects concerning visiting space could be subsidized in this framework.

4. In the German-language Community

396. The Decree concerning Assistance to Young People of 20 March 1995 stipulates that in youth protection measures, both at the level of assistance to young people and that of the juvenile court, to keep

a young person in his normal family environment must be the aim of any measure, except when this would not be in the best interest of the child.

397. Likewise, the person or institution harbouring a child must maintain and encourage contacts with the family of origin, except if those contacts are harmful to the full flowering of the child.

D. Family reunification (art. 10)

At the federal level

398. Regarding non-asylum-seeking foreigners or recognized refugees, the legal provisions governing family reunification were explained in Belgium's previous report (p. 56, paras. 211-214).

399. As already stated, the wish of the parent who stayed behind in the country of origin is verified through judicial reports or documents establishing his or her consent.

400. The Aliens Office does not have statistics on the number of children having asked for family reunification.

401. As for the right of the child whose parents reside in different countries to maintain contacts with both parents, it was stated in Belgium's previous report (p. 56, para. 215), that the parent not residing in Belgium could request permission to spend a maximum of three months in the country in order to visit his or her child (with the necessary, possibly multiple entry, visa, unless the parent has been exempted). On the other hand, a child holding a residence permit in Belgium may leave the country and return, and the return depends only on the possession of a passport and his valid residence permit (article 19 of the Act of 15 December 1980 on Access to Belgian Territory, Residence, Establishment and Removal of Foreigners).

E. Recovery of maintenance for the child (art 27, para. 4)

At the federal level

402. The bill relating to the procedure for collective settlement of debts contains provisions designed to protect the rights of the maintenance creditor. In particular, different treatment is given to the terms of pensions not yet due and pension in arrears. Accordingly:

a) a ruling of admissibility of a demand for collective settlement of debts prohibits the debtor, unless authorized by a judge "to perform any act likely to favour a creditor, except payment of a maintenance debt, but with the exception of arrears" (Judicial Code, art. 1675, 7, para. 3);

b) the judge may not grant a remission of maintenance debts not yet due on the day of the decision ordering his plan of judicial settlement (Judicial Code, art. 1675, 13, para. 3).

F. Children deprived of a family environment (art. 20)

1. In the French Community

403. Paragraph 236 of the initial report must be reviewed insofar as article 40 of the Decree was not specifically implemented. In fact, research on relations between sheltered children and their families, conducted in 1994, jointly by the Administration of Assistance to Young People and the "Right and Security of Life" Centre of the Faculty of Law of the Notre-Dame de la Paix Faculties at Namur, showed that links between the child and his original family broke down essentially when the child was placed in a

foster home, and very little when he was institutionalized. Since only placements in an institution are covered by article 40 of the Decree as likely to create situations of abandonment harmful to the child, the administration refused to implement this article systematically, in accordance with its supervisory authority.

404. This decision is based on the observation, supported by research, that the risk of real abandonment in institutions is minimal, and all the more so since the Decree obliges the placement authority to conduct a periodic review of the situation, thus also enabling it to be rapidly informed of potential situations of abandonment that might occur despite everything and, therefore, take the measures needed to curtail them, in accordance with articles 41 and 42 of the Decree. In this regard, a study was made of article 25 of the Convention. On the other hand, a special effort is made for foster families and the recognized services that assist them, so that the bond between the child and the family of origin are maintained.

2. In the Flemish Community

405. The Special Fund mentioned in paragraph 238 of the initial report was abolished in 1996 (see below, Part VII.E).

406. Concerning paragraph 239 of the initial report, it must be observed that article 37 of the Protection of Young Persons Act of 1965 was repealed in the Flemish Community with the entry into force of the judicial part of the Decrees on special assistance to young people, on 27 September 1994 (see above, Part IV.B). Article 22 of the aforementioned Decrees stipulates the conditions in which the juvenile court must hear a “situation of problematical education”. The regulations, mentioned in paragraph 242, on the assistance provided by the social services of the committee for the welfare of young persons are similarly provided for in the judicial part of the Decrees for the juvenile court. Also, regarding paragraph 240, the 1991 Executive Order has been replaced by the 1994 Executive Order.

407. A minor may only be placed in a closed community institution for special assistance to young persons in the context of problematical education as an exceptional measure, on the ruling of the juvenile court, for a maximum period of three months provided that he or she has attained the age of 14. Moreover, it must be proven that the minor has repeatedly evaded other less restrictive placement measures and that this measure is necessary for safeguarding the integrity of his or her person. In order to limit to a minimum the number of persons placed in these institutions, a variant, 1 bis, was provided for in category 1 guidance homes providing residential care. Unlike the other private initiatives in this area, these homes are designed exclusively for minors aged 12 or more and are obliged to receive them. Their overall reception capacity is 383.

408. Initiatives have been taken for immigrant minors in closed community institutions. A study day on the topic of intercultural communication in community institutions for youth special assistance took place on 25 June 1997. A model file was also prepared during 1997 as part of the work of the group responsible for studying the policy on minorities in community institutions. In connection with this model file, and in collaboration with the coordinator from the ministry, a study group on intercultural communication was created in Bernem, with a view to improving the progress of minors by intensifying cooperation with the Ghent immigrant-support team (see above). In the community establishment *De Zande*, a project was launched to improve contacts with the family environment. To that end, a half-time immigrant educator was engaged.

409. The *Onderzoeksgroep Jeugdcriminologie* (Study Group on Youth Crime) of the Catholic University of Louvain conducted a study on social action to develop a model for closed community institutions that would help keep the minor as occupied as possible during his stay in the establishment. In that regard, a programme of reasonable therapy and continued monitoring after the stay was devised. Unsupervised

immigrant minors , and particularly minors requesting asylum and young gypsies, are accorded special attention.

410. In December 1997, the Flemish Minister for Finance, the Budget and Health Policy entrusted to Professor Dr. Jannes of the Faculty of Psychiatry and Neuropsychology of the Ghent University Hospital the project on *Onderzoek naar psychiatrische problematiek bij minderjarigen in Vlaanderen* (Study of psychiatric problems among minors in Flanders). The project was two-tiered. First of all, a study was made on existing serious psychiatric problems among minors in Flanders, particularly young people on whom guidance was imposed, for the population that is the target of ambulatory and residential private initiatives of special assistance to young people and mental-health establishments. Next, the Minister wished to have an exact idea of the current and future juridical framework for forced admission and treatment with regard to the rights of the child.

411. The Communities were associated with a working group, chaired by the Ministry for Justice, on the abolition of the law on the declaration of abandonment. On the one hand, it appeared that the benefit provided by this law was minimum, if not non-existent. On the other, it was subject to abuse. This discussion was held in connection with the issue of placement for reasons of poverty.

3. In the German-language Community

412. The Decree of 20 March 1995 on assistance to young persons endows every young person with the right to organized assistance under the Decree.

413. The Decree stipulates that minors must participate, from the age of 12, in consultations concerning them with the Youth Assistance Service and must give their written consent to any measure concerning them.

414. It also states that in youth-protection measures, both with the Youth Assistance Service and with the juvenile court, the purpose of any measure must be to keep young people in their normal family environment, except where it would be contrary to their interests.

415. Likewise, the person or institution harbouring a child must maintain and encourage contacts with the family of origin, except if those contacts are harmful to the full flowering of the child.

G. Adoption (art. 21)

1. At the federal level

416. In view of the imminent ratification of the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption of 29 May 1993, work has started on an in-depth reform of Belgian adoption legislation.

417. This Convention has three aims: to establish guarantees that international adoptions are in the best interests of children and respect the fundamental rights guaranteed them in international law, to establish a system of cooperation among contracting States to ensure respect for those guarantees and so prevent the abduction, sale of, or trafficking in, children, as well as recognition, in the contracting parties, of adoptions conducted in conformity with the Convention. The Convention intends to attain these objectives through the creation of central authorities within each State and the establishment of strict conditions for adoption.

418. The main objective of the above-mentioned Belgian legislative reform is to fully meet the requirements of the Hague Convention and establish conditions for its enforcement by making the

necessary legislative and administrative adjustments. However, there are plans to enable all children to enjoy the same guarantees whether or not the adoption falls within the scope of the Convention.

419. The Convention assigns special importance to the verification of the prospective adoptive parents' qualifications and adoption capacity. This verification is done through the introduction of an individual approval procedure. There are plans to introduce this approval into Belgian law, as a basic condition for adoption, whether or not it falls within the framework of the Convention, or is carried out in Belgium without the child moving to or from another country.

420. In parallel, the reform is designed to fill in some of the gaps in the current legislation or solve certain problems stemming from its enforcement and to renew or simplify some aspects of the procedure or the very concept of adoption.

421. The planned amendments include the abolition of the act of adoption and the procedure of official approval. Adoption will take place through a procedure of ruling that is non-adjudicative when the persons called upon to grant their consent agree, and adjudicative when consent is refused, lowering the age at which children must consent to their adoption, and the possibility of a new adoption following an initial full adoption.

2. In the French Community

422. Effective monitoring of adoption agencies in the French Community has been problematical, especially when they practise inter-country adoption, which most of them do. Complaints lodged by prospective adoptive parents and adoptive parents with the Delegate-General for Children's Rights against some of these agencies induced the parent Minister to cancel recognition of several of them. Also envisaged is a reform of the pertinent regulations, in connection with the Belgian State's imminent ratification of the Hague Convention.

3. In the Flemish Community

423. The Flemish Community recently ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption: Child and Family (*Kind en Gezin*) has been designated the central authority for Flanders.

424. Also, in July 1997 the Flemish Parliament passed an Executive Decree on intercountry adoption, which addressed, inter alia, the preparation of prospective adoptive parents, authorization in principle, selection and matching, and follow-up.

425. At the federal level, a working group is currently drafting the provisions of the Civil Code to be modified. The new legislation is to be the subject of a federal debate, and introduces the notion of authorization in principle. Only then can the new Flemish laws demonstrate their full effects.

426. Adoption is complicated owing to the distribution of authority in Belgium. The general conditions for adopting and being adopted are set out in the domestic legislation (Civil Code). However, anything relating to preparation, selection, matching and follow-up is considered to be assistance to persons and therefore falls within the Community's remit. All the authorities concerned are endeavouring to harmonize the regulations as far as possible, but the task is not a simple one. Even so, there has been a perceptible development in attitudes: adoption is no longer considered the miracle solution, and it is now accepted that it is important for every child to grow up within his own family. As time goes by, adoption is becoming a last resort.

427. Statistics on adoption are appended to this report.

4. In the German-language Community

428. In view of the imminent ratification of the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption, the German-language Community is considering a cooperation agreement with the country's two other Communities.

429. The Government of the German-language Community is preparing the pertinent regulations and will entrust the appropriate services with the task of selecting and training prospective adoptive parents.

H. Illicit transfer and non-return (art. 11)

At the federal level

430. A bill concerning approval of the Hague Convention on the Civil Aspects of International Child Abduction of 25 October 1980 will shortly be submitted to Parliament.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

1. At the federal level

431. In the Belgian Criminal Code, the child still appears as an object of parental authority to which respect is due. Nowadays, the child is recognized as a human person and the subject of rights and obligations.

432. This recognition needed to be emphasized in the Criminal Code, which is the reflection of a society's fundamental values. A draft bill proposes the review of the provisions of the Criminal Code protecting minors, in order to adapt them to current requirements.

433. The most significant amendments concern indecent assault and rape; these two infringements are joined in a chapter entitled "Assaults on sexual integrity". The crime is, evidently, not sexuality, but its abuse, and account has therefore been taken of both factors: author and victim.

434. It was seen fit to establish an age of reference, which was set at 14. This in no way refers to sexual majority, but rather to a system of maximum protection of a minor up to a certain age, because where a minor is concerned, there is an unassailable assumption of lack of consent in the bill (see also paras. 110-116 above).

2. In the French Community

435. On the subject of ill-treatment, the French Community has adopted new provisions by decree. The Decree of 29 April 1985 on the protection of abused children was repealed and replaced by the Decree of 16 March 1998 on assistance to abused children.

436. The absolute principle of the right of an abused child to receive assistance, and the obligation on the intervening party or any professional working with children to come to their aid, is a pillar of the text. It therefore imposes on all psychological, medical and social personnel in child sectors the obligation to assist an effective or suspected abused child.

437. The Decree provides for screening coordination and improved provision of care in situations of ill-treatment. A coordination committee in each judicial district regulates coordination, so that exchanges among actors on the ground may be harmonized and promoted. It provides for the establishment of a standing committee on child abuse. It has retained the current multidisciplinary teams recognized by the Births and Children Office and, based on conclusive experience, provides for use of the title SOS Children teams in other services. It also advocates training in the approach to child abuse for all persons working in child sectors and underscores the role that psychological, medical and social centres and school medical inspection centres can play in this area.

438. Lastly, the Decree establishes the institutional framework of the French Community's telephone helpline for children; its principal activity is to assist children through the organization of a helpline, and the free number to be dialled is 103.

439. A collaboration protocol jointly prepared by representatives of the SOS Children teams and youth assistance counsellors was approved by the Minister-President of the French Community in February 1997. This protocol has been transmitted to all SOS Children teams and youth assistance services for counsellors, to serve as a guide for action in situations of abuse.

440. In its regulations concerning the placement of children, the Births and Children Office makes sure that it secures all the necessary guarantees on the morals of adults who come into contact with children. Child-minders are required to produce a certificate of clean living and morals for each person over 18 forming part of the household or required to have frequent contact with children. This regulation, already in force in subsidized reception centres, has been extended to private child-minders and wardens of children's homes (Executive Decree of the Government of the French Community of 23 September 1994).

441. The Article 34 campaign was launched in the French Community in the spring of 1994, on the initiative of the Delegate-General for Children's Rights. It was so named in reference to the article of the Convention on the Rights of the Child that condemns the ill-treatment and sexual abuse of children. The campaign included a petition comprising some 20 specific requirements distributed over three main chapters:

- Prevention, which must be assigned priority;
- Legislative reforms, regarding both procedure and punishment;
- Concrete measures to be taken in order to promote treatment of the phenomenon.

442. Prevention, which falls within the Community's purview, has yielded results, and a number of activities have been conducted.

443. For instance, prevention and awareness campaigns have included a variety of campaigns of education in personal safety for children, in the form of the pamphlet You too must think of your safety! and the illustrated book Mimi, cactus flower, accompanied by a confidential card.

444. The idea is for children to acquire reflexes of personal safety and be able to avoid dangerous situations and react to danger as appropriately as possible. These various brochures were very widely disseminated to children. The campaigns, launched well before the dramatic events of 1996, were subsequently continued and intensified.

445. More recently, in June 1998, a new instrument was created to help parents and child-sector professionals respond to the many questions children ask about paedophilia and child abductions. It was

with this in mind that the story Zoë, the little princess was written. The story deals with adoption, child disappearances and children's rights in general. Its purpose is to help adults talk to children who so wish about these subjects, which must no longer be taboo, without frightening or overprotecting them.

446. The story ends with a short guide for children reminding them of the telephone helpline *Ecoute-Enfants*, which they may call 24 hours a day, on which anonymity is fully guaranteed and professionals listen to them and can help them.

447. The book also includes a file for adults wishing to reply to questions from children. This short guide for parents and childcare professionals furnishes useful information about certain children's rights appearing in the Convention on the Rights of the Child, and in some special legislation in our country and in the French Community. It also furnishes information on the various services and authorities that can help children and families, and lists their addresses and telephone numbers. Thanks to the support of a private partner, 18,000 copies were distributed free of charge to child-sector professionals wishing to use the story in their work.

448. As far as awareness and information are concerned, as part of the Article 24 campaign, a variety of tools such as posters, pamphlets and brochures were published for three different types of public – children themselves, child-sector professionals and the general public.

449. Where children are concerned, a wide-ranging awareness activity was organized with posters, the central theme of which is "Do not stay on your own". The aim is to make children understand that they should dare to discuss problems they encounter with professionals or in their immediate environment. The campaign's general message that a child is not a sexual partner was illustrated, depending on the target public, by a drawing for a child or a teenager. Lastly, the poster mentions the helpline number, which children can call free of charge. This poster campaign was conducted as a matter of priority in schools, but also in all children's institutions (infant, youth assistance and juvenile sectors among others).

450. This invitation to children and young people to confide abuses they may have suffered must be accompanied by information, awareness and training of the various child-sector professionals, in whom they may confide and who can detect problem situations. One cannot overstate the importance of training for professionals coming into contact with children, in order to perfect their capacity to listen to and take care of them. It is this awareness that induced the French Community in Belgium to target child-sector professionals first and foremost and as a matter of priority.

451. As far as they are concerned, the aim of the campaign is to develop an appropriate attitude to a child who reports sexual abuse or who is suspected of being sexually abused. Every worker receives a pamphlet and may obtain a brochure containing more specific information. Since the dramatic events that rocked our country in August 1996, child-sector professionals have increasingly sought information and training. The brochure was therefore reprinted many times and, on the initiative of the crisis unit, inspired by the ONE Committee for the Care of Abused Children, discussion and training sessions were organized for the ONE's medical and social workers, personnel in the public and private services of the youth-assistance sector and staff in the psychological, medical and social centres and school medical inspection centres.

452. Indeed, some 400 agents in the above-mentioned centres received specific training in their approach to situations of abuse. In addition, each school in the French Community was invited to appoint a person of reference to whom the information needed to react effectively to cases of abuse could be sent.

453. Lastly, since information for prospective child-sector professionals is equally fundamental, an agreement was drawn up with the Minister for Higher Education to disseminate the brochure among final-year students in these sectors: schoolmasters, teachers, social workers, educators, nurses, etc.

454. It was also important to alert parents and the general public to these problems and provide them with information. To that end, an awareness and information brochure and a poster were published with the financial support of the Minister for Justice. The poster invites people to procure the brochure, which contains basic information about sexual abuse of children.

455. This brochure is a veritable mine of information: it contains definitions, the addresses and phone numbers of the services specializing in the care of abused children, organization of the youth assistance sector, judicial procedures, etc. In the aftermath of the events of August 1996, demand for this brochure soared to such an extent that the original 50,000 copies were quickly exhausted. Thanks to further support from the Ministry for Justice and private partners, over 100,000 copies of the brochure Article 34 were reprinted and distributed, including to the French Community services (assistance to young people, social assistance to litigants and the ONE SOS Children teams), in the Law Courts via the justice assistants and through private partners. It will certainly give everyone a better grasp of child sexual abuse and help inculcate the most appropriate attitudes for protecting and helping their children.

456. It should be pointed out that the use of all these tools was supervised by accompanying scientific committees comprising, among others, academics, judicial experts and persons dealing with child abuse.

457. Another demand expressed in the appeal to fight paedophilia was the availability across the entire French Community of the telephone helpline for children, which they can dial directly.

458. This requirement became increasingly important as the scientific committee for the Article 34 campaign had insisted that the telephone number displayed on the posters for children should refer to a service with the following characteristics: a single central service, professionally managed and free of charge 24 hours a day. The choice, therefore, was the *Ecoute-Enfants* helpline, which already possessed two of those characteristics, in that it was free and professionally staffed.

459. *Ecoute-Enfants* is a service that answers, on the telephone, questions from children, young people, and persons worried about themselves or others. Since 1 October 1996, thanks to a partnership with the French Community, the service now operates 24 hours a day.

460. The institutionalization of this helpline has moved into a new phase since the Decree on assistance to abused children provides for the organization of a helpline for children. This telephone service will be accessible 24 hours a day, so that children who find themselves in difficulty, isolation or danger at times when they cannot consult an adult they know can call qualified staff. A further improvement was made with the simplification of the number to 103.

461. Lastly, in addition to the initiatives already taken, the question of training for professionals in contact with children is even better set forth in the Decree on assistance to abused children, which explicitly provides that the initial training of actors in the child sectors must include an approach to this problem.

462. The achievements of the Article 34 campaign include the institution of a procedure between the judicial authorities and the French Community for the transmission of sentences and notices of prosecution in order to stop persons prosecuted or sentenced for immoral acts against children continuing to have direct contact with children in the course of their professional duties.

463. In addition, the regulation concerning the preventive suspension of teachers was recently amended in the French Community with a view to making it automatic in the event of a charge of immoral acts against children.

3. In the Flemish Community

464. Article 36, 1° and 2°, and article 37 of the Act of 1965 referred to in paragraph 277 no longer apply (see above). In accordance with the provisions of the Decrees concerning special assistance to young people (arts. 22 et seq.), the juvenile court may take a compulsory pedagogical measure with regard to a minor with educational problems.

465. During the period 1991-1996, the number of declared cases increased by 92 per cent in the *Vertrouwenscentra Kindermishandeling* (Confidential centres for abused children). Over 25,000 children, some of them more than once, appealed to these centres in connection with a serious problem, a risk of ill-treatment or a situation of crisis for the child, in which it was unclear what the problem really was. The increase continued in 1997 (see statistics attached). What emerges is that child abuse is increasingly discussed (not necessarily because the problem occurs more often) and that people are more likely to find the courage to lift the taboo and call on outside assistance. These statistics also demonstrate the centre's, explained by the fact that they can be approached even in the case of mere presumption and that totally confidential assistance may be found there. Even perpetrators have been known to seek such advice.

466. In Flanders, various actors intervene in prevention, screening and assistance in cases of ill-treatment inflicted on children. In order further to reinforce existing services and better harmonize their activities, in 1997 the Flemish Government prepared a plan of action for prevention and assistance, releasing a total supplement of BF 140 million for the problem. This plan stresses the important role of confidential centres. Other sectors also receive financial support: they include the centres for general social assistance (help for victims and perpetrators, legal social assistance, etc.) and the mental health centres, which provide treatment and support for victims and their families.

467. Within Child and Family, the competent body on child abuse, including prevention and assistance, which is the authority that recognizes and subsidizes the confidential centres, a specialized official was appointed to the Children's Place section in 1996. Intensive consultation with the confidential centres and the quest for an effective response to the public's basic questions made it possible to establish a policy vision on the subject. In 1997, the budget for the six confidential centres increased from BF 60 million to BF 81.64 million.

468. The mental health centres' mission is to provide direct assistance to patients with psychological problems, who can be treated as day patients, including diagnosis. In towns and communes in which several centres are recognized, specialization is possible in consultation with the other centres. Hence, six of the total 84 centres currently deal exclusively with minors, it being understood that adults are also taken into consideration in a family-therapy approach. Moreover, some 50 centres assigned some of their staff to work with minors (teams for children and young people). The minors' group accounts for one quarter of the total number of patients of the mental health centres (1994-1996 figures: see annex). An additional sum of BF 80 million was allocated to the 19 mental-health centre networks as part of the above-mentioned plan of action. The purpose is to step up, and improve the quality of, abused children.

469. Regarding to prevention and assistance, the role of the *Comités voor Bijzondere Jeugdzorg* (youth special assistance committees) and the school medical inspection service cannot be ignored.

470. In addition, the Flemish Government has strongly urged the conclusion of protocols of cooperation among the units of the various sectors and the establishment of a regional consultation on social assistance. In the meantime, a framework protocol was concluded on cooperation between the confidential centres and the networks of mental-health centres.

471. Furthermore, on 17 February 1998 the Flemish Government ratified the cooperation agreement on assistance to victims between the State and the Flemish Community. This agreement must guarantee a smooth transition of victims from the police and judicial services to the services of the Community's youth-assistance services.

472. The Flemish Community recognizes and subsidizes an independent general social- welfare centre in each district. Assistance to victims has been entrusted to them as an additional task under the Decree concerning general social assistance of 18 December 1997 (see above) and they support and help victims.

473. In accordance with the cooperation agreement, the data on most victims are communicated on a form that is transmitted to the general social-assistance centres. A volunteer from the centre then contacts victims. In fact, it has become apparent that the involvement of volunteers makes for more effective recovery of confidence in people and in society instead of the involvement of professional social workers and police services.

474. Inasmuch as victims do not request assistance as a matter of course and police officers are not always familiar with the functioning of the social-assistance and health services, attempts were made to find an appropriate standard model for interdepartmental transfers, at the request of the police, the judiciary and the victim-assistance centres recognized by the Flemish Community.

475. The cooperation agreement provides that, when a statement is being taken or a complaint is lodged, the police fill out a form and communicate it to the judicial district's victim-assistance centre. If the victim does not agree to that arrangement, the police provide a brochure with the nearest victim-assistance centre's address and telephone number, and the victim may contact the centre later of he or she so wishes.

476. In case of an emergency, the police may refer victims (such as women and children who are victims of serious violence or trafficking in human beings) to residential institutions. A referral through the confidential centres for abused children is advocated in the case of a minor victim of domestic or sexual violence.

477. The cooperation agreement also provides for the necessary consultation structures for implementing the agreements concluded and ensure follow-up.

478. In each judicial district, cooperation is guaranteed through the district council, which comprises local actors in the field of abuse.

479. At the same time, cooperation among professionals of the various justice, police and social-assistance services requires the establishment of a social-assistance team to help victims. This team must fully implement cooperation on the ground. Case management may be used as a social-work tool so as better to process a file in which several services and persons intervene simultaneously.

480. The *Nationaal Forum voor het Slachtofferbeleid* (National forum for policy with regard to victims) was entrusted with the mission of assessing the cooperation agreement every two years and reporting to the competent ministers.

481. The provision of a contact point at the Family and Social Welfare administration of the Flemish Community facilitates ongoing dialogue and cooperation with the administrations of the Federal Ministries of the Interior and Justice.

482. Given this cooperation agreement, recognition was conferred in 1997 on the hitherto unrecognized general social assistance centres for victims. The total number of subsidized posts for this mission increased from 15 to 36.5.

483. At the request of the Minister for Education, the not-for-profit association Limits (OSGW Consultancy) launched an information unit *Ongewenst Seksueel Gedrag* (Sexual Harassment) in November 1997. The project targets sexual harassment in all its forms in education, that is to say not only in child-teacher relations, but also harassment among adults.

484. The following four elements are taken into consideration:

- a telephone helpline service three half-days per week is staffed by three sexologists from the association Limits;
- advice and information are provided at the request of all persons concerned with education (teachers, managers, parents and pupils);
- informal processing of complaints is instituted if the school management specifically requests and consents to it;
- the revising of a scenario useful in crisis situations for schools and all educational personnel.

485. Regarding physical training in self-defence, reference should be made to *Refleks Weerbaarheidscentrum* (Reflex Resistance Centre). With the help of the King Baudouin Foundation, among others, this centre has prepared an integral approach for basic education. *Refleks* goes much further than the physical aspect of resistance and is, first and foremost, an integral approach. It endeavours to stimulate children's long-term resistance, promote a bond of confidence with adults and help adults better to detect the signs. The Limits contact person thus makes regular referrals to this centre.

486. The Flemish public agency *Vlaams Fonds voor de Sociale Integratie van Personen met een Handicap* (Flemish Fund for the Social Integration of Disabled Persons) has undertaken within the child rights working group (see above, Part II) to develop a plan of action for prevention and assistance regarding the sexual abuse of disabled children in institutions. Thanks mainly to the existence of a complaints procedure and a users' advisory body, handicapped children may in most cases, through their legal representatives, disclose, denounce or attempt to avoid intolerable situations (see above).

487. For radio and television, please refer to the statements made with regard to article 17 (see above, Part V. D).

4. In the German-language Community

488. In the German-language Community there are two multidisciplinary working groups dealing with questions of abuse in order to provide better protection for children. These groups form part of the Youth Assistance Council and its members are drawn from various social services working with families (parents, children or adolescents).

a) The *Arbeitsgruppe zur Vernetzung von Kinderschutz* (Working Group for integrated protection of children) is concerned with improving screening of situations of abuse, care for the persons concerned and coordination among the actors in cases that arise within the various social services. The group favours a network approach rather than one of increasingly specialized institutions. Since 1992, the group has been supervising professionals faced with cases of child abuse in their work. This supervision helps to provide guidance for persons involved with this issue;

b) The *Berufsübergreifende Vorbeugung von KindesmiBhandlung* (Inter-vocational prevention of child abuse) is a multidisciplinary platform on which the representatives of the social services, education and the forces of law and order work on prevention: reciprocal information and coordination of particular initiatives, common reflection, joint initiatives and evaluation. The Ministry established this group in October 1996.

J. Periodic review of placement (art. 25)

1. At the federal level

489. The Act of 2 February 1994 amended article 60 of the Protection of Young Persons Act of 8 April 1965.

490. The juvenile court may at any time, in a minor's interest, amend the measures concerning not only the persons responsible for young people but the minor himself.

491. The plan is now that the measures on minors imposed by the court must be reviewed before the end of one year from the day on which the ruling became final.

492. Moreover, the competent authorities must each quarter transmit to the juvenile court an assessment report on a minor who has been the subject of a custody measure in a closed educational system.

2. In the French Community

493. Paragraph 289 of the initial report must be reviewed in the light of the statements concerning the consideration of article 20.

3. In the Flemish Community

494. It was stated in paragraph 290 of the initial report that Title IV of the coordinated Decrees on special assistance to young persons of 4 April 1990 had not yet entered into force. Those Decrees took effect in Flanders in their entirety on 27 September 1994.

4. In the German-language Community

495. An initial placement is always provisional, and the decision must be reviewed after one year at the latest. Measures to extend an institutional placement must be reviewed every two years.

496. Parents and young people aged 12 or more have the right to introduce a procedure challenging the placement at any time.

VII. HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

In the Flemish Community

497. A working group responsible for issues of safety at school was established within the Ministry for the Flemish Community for young people attending school. A brochure setting out the principles of security was about 15 others will be established in the next two years. Pedestrian crossings near schools will also be better protected.

498. A campaign was launched, in collaboration with the federal authorities, to encourage young cyclists to wear helmets; approximately 16,000 children in basic education participated.

499. Lastly, the Flemish public transport firm De Lijn pays special attention to children in its training of staff members ("anticipatory or defensive driving").

B. Disabled children (art. 23)

1. At the federal level

500. Recognition of the specific characteristics of mentally or physically disabled children, in circumstances in which their autonomy may be stimulated or their active participation in the life of society can be facilitated, was contained in the February 1998 report of the Advisory Council on Functional Rehabilitation, a consultative organ concerned with compulsory health-care insurance.

501. This report, which deals mainly with functional rehabilitation, is founded on certain principles based on the identity of the child. Such children, contrary to popular belief, are not "small" disabled adults, but children, in full growth and development, in a fundamental relationship with their parents or educators. They acquire knowledge and go through crucial life phases the impact of which will be felt throughout their lives. The official position of the above-mentioned council is that disability in children is manifest throughout their growth at all levels of human functioning and therefore calls for assistance at all levels.

502. In recent years, special forms of care have been devised under the sickness-insurance regime.

503. Thus, adolescents' psychical problems, although linked in some ways to that period of their lives, may be sufficiently serious for some of them to end up in adult psychiatric services, with the risk of bearing that stigma for the rest of their lives. A first-phase residential therapeutic unit in an urban environment and independent of the psychiatric hospital, has been created for them The idea is to reintegrate them as rapidly as possible, which is very important for young people attending school.

504. A great deal of attention has also been paid to abused children who need to be separated from their normal environment. Attempts are made to rehabilitate such children who have suffered trauma, in a spirit of reintegration or integration into a new family setting, outside the hospital environment, in an atmosphere as similar as possible to a child's normal milieu (school and friends) and, if possible, gradually involving parents.

505. Lastly, paralysed children often end up in a specifically rehabilitation system, for both school and work, even if their intellectual faculties are normal. In recent years, sickness-insurance action has been increased for a number of initiatives aimed at reintegration into the normal environment, so that, thanks to

high-quality care, the chances of reintegration, so passionately desired by these children and their parents, are very high.

506. Specific measures in favour of disabled children have also been taken through increased insurance benefits, exemption from cost-sharing on social grounds, and chronic diseases.

507. As of 1 July 1997, disabled children have been receiving higher family allowances and are entitled to preferential reimbursements if the taxable gross annual income of the household to which they belong is lower than an established ceiling (currently BF 465,211, increased by BF 86,123 per dependant person). Such children may also be exempted from cost-sharing on social grounds, which means that over a specific financial year they will pay a maximum of BF 15,000 in personal contributions.

508. As part of the measures taken with regard to chronic diseases, such children are entitled to a lump-sum payment of BF 10,000 if they paid BF 10,000 of treatment costs in 1997 and in 1998.

2. In the French Community

509. A considerable effort has been expended to promote the integration of the disabled in existing structures in order to assure them of access to leisure and culture.

510. Certain youth associations specifically provide assistance to disabled youngsters. These organizations also strive to help the young disabled learn about their rights and understand them.

511. In the Walloon region, the functioning of early assistance services is regulated by the Decree of 12 July 1990.

512. An Executive Decree of the Walloon Government of 13 April 1995 establishes standards to which services must conform in order to gain official recognition and a subsidy that becomes recurrent as a result. More than a simple statutory provision, this measure is considered by service leaders as additional and essential recognition of the quality of their action.

513. A Decree of 6 April 1995 on the integration of the disabled in Wallonia defines certain principles, including possibilities of reception and shelter in day establishments or in residential or semi-residential institutions equipped to take charge of supposedly uneducable children or those not attending school.

514. Under these same provisions, in certain conditions the region may assume part of the schooling costs, once it takes place in ordinary education; the same is true of certain benefits, known as "material assistance", designed to facilitate the disabled child's autonomy and integration into society.

515. In the French Community Commission, an Order of the College of the French Community Commission of 25 January 1996 regulates the individual grants for facilitating the disabled person's autonomy and integration.

516. Thus, a disabled person following a course of study or an apprenticeship recognized by the authorities may benefit from individual material assistance (it is important to stress that the situation of children not yet subject to compulsory education has been assimilated thereto).

517. Certain children require medical, social or educational supervision during their schooling, or educational support when their disability prevents them from attending school. In some cases, this support is supplemented with some form of accommodation.

518. The French Community Commission accredits and subsidizes the staff, operation, infrastructure and costs (linked to the presence of disabled persons and their transport) of different facilities:

a) Residential institutions. These provide accommodation, education and social, medical, paramedical and psychological support for the disabled child, with the assistance of an interdisciplinary team. Follow-up is carried out in collaboration with the family, an ordinary or special educational institution and other partners outside the institution. Admission to a residential accommodation is open to young people aged 0-21;

b) Semi-residential institutions. They also accept children aged 0-21 five days a week, but only in the daytime. They provide individual medical, psychological, paramedical and social guidance. To ensure the child's optimal integration and education, close relations are maintained between the semi-residential institution and the family, the school, the family doctor or other specialized services outside the institution. There are also semi-residential institutions with activities particularly geared to children who cannot attend school;

c) Family placement services. A third type of accommodation is provided by the family placement services, which deal with placement in volunteer families, so as to provide the disabled child with accommodation in a convivial atmosphere. The family placement services, comprising psychological, medical and social workers, monitor the disabled child's well-being within the host family and liaise with the other services (semi-residential or ordinary or special-education establishments). This liaison facilitates coordination of the treatment and education of disabled children. The host family provide accommodation, maintenance and general education for the children in its charge; each family accommodates up to five children.

519. The French Community Commission subsidizes early-assistance services, the general aims of which are to:

a) provide, with the help of a multidisciplinary team, educational, psychological and social support for the disabled children through individual activities in the home and in the various places in which they are called upon to live;

b) support the family, from the detection of the disability, through psychological and social assistance that will enable it to accommodate the disabled child to the best of its ability;

c) provide educational or technical advice for organizing the life of the children's lives and their integration into their families and later into school;

d) pursue pre-school and school support by meetings and training of educational personnel;

e) promote, in collaboration with a functional rehabilitation centre, the prevention and screening of any type of deficiency before, during and after pregnancy and, if necessary, steer the family towards medical support.

520. The child-protection activities of the youth-assistance sector of the French Community Commission is one component of a global social policy. One example is the global social action conducted by the centres of the same name.

521. Family planning centres, which are competent in anything to do with emotional and sexual life, also have a role to play (prevention of domestic violence, marriage counselling, etc.). Their action, which is geared to the family, naturally benefits children. A family planning centre has developed specific action for

the victims of sects. Family assistance services may come to the aid of families in difficulty (single parents, seriously ill children, etc.). The social integration and cohabitation programmes, also run by the French Community Commission, afford support to various associations dealing with the more disadvantaged population groups. Some programmes are specifically designed for young people, such as Eté Jeunes ("Young People's Summer"), which caters as a matter of priority to minors aged 12-18.

3. In the Flemish Community

522. Integrated education in the Flemish Community aims at bringing pupils with a disability or learning and education problems into regular education, with the assistance of a special school. Integrated education may be seen as a tool for cooperation between regular and special education. One of the admission criteria is that the pupil should possess a special education certificate (see statistics attached).

523. As part of the *zorgverbreding* (broadening of concerns), attempts are made to provide optimum support to children from disadvantaged backgrounds in their transition from nursery to primary school. They would appear to end up in special education more readily than others.

524. The Decree of 24 May 1984 creating *Kind en Gezin* (Child and Family) includes among the agency's tasks that of monitoring the development of sick and disabled children and paying considerable attention to prevention in that field. A special preventive childcare package for parents of disabled children is currently being prepared.

525. The Decree of 27 June 1990 creating the establishment of the Flemish Fund for the Social Integration of Disabled Persons contains no special provisions for disabled children except for additional support for education (individual placements are reimbursed if they are necessary; a form of education for children who cannot attend school is provided in the medical-pedagogical institutes and semi-residential institutions), and specific provisions on individual material assistance (either through specific child benefits - provision of buggies, wheelchairs, bicycles and tandems, and specially adapted chairs and tables - or through special attention to certain target groups, including autistic children).

526. At the Community level, the following categories of infrastructure are aimed specifically at children:

- residential institutions for minors (60 establishments providing 5,033 places);
- semi-residential institutions for minors (57 establishments providing 3,508 places);
- psycho-pedagogical observation, guidance and support centres for the disabled (six centres providing 327 places);
- family placement services (12 services);
- rehabilitation centres (143 centres, 25 of them specifically catering for children with developmental problems, and two child psychiatric centres).

527. Moreover, the *inspraakbesluiten* (participation Orders) guarantee the rights of disabled persons who receive assistance under the rules of the Fund. These Orders guarantee more participation and juridical security for users and members of their families:

a) Any service in which disabled persons use shared facilities (with the exception of protected workshops, family placement services and ambulatory services) must possess rules of procedure that cater to the service's and its users' reciprocal rights and obligations. These rules of procedure must make a number of provisions, notably on the way in which complaints, suggestions and comments may be formulated, on how they are dealt with by the service and on the circumstances that gave rise to a redirection or referral of the service;

b) Any reception, treatment or support service for disabled persons (with the exception of the protected workshops and ambulatory services) must conclude with the user a protocol of sojourn, reception, treatment or support, which determines the individual modalities of the services to be provided. This protocol must contain the plan of individual treatment service provision;

c) Every service (with the exception of the protected workshops) must be equipped with a complaints procedure and, to that end, have a complaints commission, on which users are also represented. Complaints may be lodged on various aspects of this service, including reception, treatment or support. More specifically, they may concern physical or psychological abuse. Although the consumers are not always satisfied with the way a complaint is dealt with, they may write to the official in charge of *Vlaams Fonds* (the Flemish Fund);

d) In the case of a long stay (more than two years) any service must provide for the users' participation, either individually (previous agreement in the event of a change in the services to be provided), or collectively through a consumer council and a delegate of that council, who will attend, as an observer, the meetings of the board of directors of the authority organizing the service;

e) Individually, there is a right to information. The consumers or their legal representatives have the right to be fully and accurately informed of the reception, treatment and support concerning them.

528. The consumer council may guarantee collective participation. This council must be created in homes for disabled adults, in the medical-pedagogical institutes, semi-residential institutions and day centres for each of the service's separate, independent and operational units. Each consumer council has at least three members, elected by the consumers from among themselves or by their legal representatives for a term of four years.

529. The number of minors who received a favourable ruling in the period 1994-1998 (up to 23 November 1998) is stated in the annex to this report. It should be pointed out that a favourable decision does not imply the effective reception or support of the person concerned.

530. Moreover, the Flemish transport company De Lijn has purchased low-platform buses and trams; pedestrian crossings are increasingly provided with equipment to help the blind and sight-impaired (rubber casings, sound systems); the Flemish housing society also has social housing, specifically designed for disabled persons. If a prospective tenant or a member of his or her family suffers from a particular disability, and an available housing unit was specially designed for a family with one or more disabled members, the prospective tenant will have absolute priority in the allocation.

C. Health and medical services (art. 24)

1. At the federal level

531. Although not explicitly based on the Convention of the Rights of the Child, the actual practice of the rights established in article 24 of the Convention is an essential element of federal health-care policy. It is also inherent in the adoption of the series of Executive Decrees of 20 August 1996 concerning neonatal and perinatal care.

532. An ad hoc working group on maternal and childcare is being prepared as part of the National Council of Hospital Institutions, a project compiling the norms for, among other things, guaranteeing the quality of hospital equipment for children.

533. Various measures were recently taken to further improve accessibility of sickness-insurance. As of 1 January 1998, the status of dependent child of a titular member of the health-care scheme is granted to all children under 25 who cannot themselves be titular members without paying contributions: the only remaining condition is age. However, if a child so wishes, he or she may claim the status of disabled titular member or titular member resident in Belgium.

534. Access to health care is thus guaranteed for children, including those whose parents are not officially insurable.

535. In addition, a number of specific measures were taken in the past few, as part of compulsory health-care insurance:

a) A number of initiatives on cot-death syndrome were taken in the past few years at various levels. Ranking was introduced among centres involved with this problem, with the centres of reference on the one hand, and local centres, which are expected to cooperate on the other. Compulsory health-care insurance validates this policy by restricting of reference any action with regard to monitoring in the home to the centres. Indications concerning home monitoring, which is fully reimbursable, are regularly updated and the number of babies monitored annually in Belgium is critically assessed;

b) Intensive support systems have been prepared for diabetic women wishing to become pregnant and for pregnant diabetics to help them obtain permanent normoglycaemia. Use of equipment to control glycaemia levels, intensive specialized support by doctors with the required training and daily diabetology experience and by a team of educators and dieticians specializing in diabetes are fully reimbursable. Free portable insulin pumps are provided, with the necessary specialized support.

c) A system for diabetic children was prepared, using specialized teams in which, in addition to education in diabetes and the provision of the necessary equipment for self-monitoring, specialized support is provided at home and at school. Here, too, equipment is free;

d) In 1998 the competent authorities decided to create and finance multidisciplinary reference centres for children suffering from metabolic illnesses, mucoviscidosis and neuromuscular ailments; all the necessary knowledge about these infections will be collected at those centres;

e) In the matter of metabolic diseases, compulsory health-care insurance will henceforth participate in the cost of medical feeding needed for their normal development by, among others, patients suffering from phenylketonuria, who are monitored by the reference centres;

f) As for mucoviscidosis, extension of medication to fat-soluble vitamins reimbursable under the health insurance scheme is foreseen, and will afford widespread prevention of the consequences of malabsorption, which is also a characteristic of this disease;

g) Mucoviscidosis patients will receive, as far as possible, the various antibiotic therapies needed in the home, even intravenously, or possibly through ambulatory care. In case of home therapy, the reference centres in question will provide support for patients in order to prevent resistance to the medication;

h) Children suffering from AIDS are all too often children abandoned to their fate without the necessary specialized support. Special multidisciplinary structures, both residential and ambulatory, have received official approval and provide intensive support to such children and their parents or to those looking after them.

536. Lastly, since 1995, various measures have been taken in favour of children as regards medicines and medical equipment:

a) Hearing specialists: for a child who has received a box-type aid before the age of three may be given an additional device of a different type before the expiry of the renewal period,

b) Implants: testing with electrical stimulation is no longer obligatory for cochlear implants for children, and the College of Physicians may exceptionally authorize a replacement if there is a compelling reason;

c) Truss suppliers and orthopaedists: since 1 February 1993 the renewal period for orthopaedic footwear has changed from one year to nine months for children up to the age of 18.

2. In the French Community

537. Organization of health in the French Community is regulated by the Decree of 14 July 1997 (summary attached), pursuant to which the Government adopted, on 28 July 1998, a five-year programme defining the main lines of the health-promotion policy, as well as the collective aspects of the preventive-medicine policy envisaged. Action programmes in favour of newborn babies, infants and the school population in general are assigned priority and must be given precedence.

538. It is the task of the Births and Children Office (ONE) to ensure that any newborn child will benefit from appropriate monitoring, whether provided through consultations at the ONE or elsewhere.

539. The increasingly brief post-delivery hospitalization calls for particularly vigilant follow-up at home (home visits by medical-social workers), and effective coordination with the professionals concerned (especially midwives).

540. The main objectives are to:

a) Reduce infant and child mortality. This objective is included in the priority prevention programmes and is widely echoed in the organization of preventive monitoring in prenatal examinations and in children's consultations. More precisely, health-education campaigns dealing with infants' sleep, and the prevention of cot deaths and accidents in the home have been put in place. Special attention is also paid to preventing premature births and low birth weights. Other routine activities are performed for this purpose; among them are vaccination campaigns, promotion of healthy eating habits and prevention of tobacco use by mothers-to-be. The indicators relating to premature births, low birth weights, tobacco use by pregnant women, infant feeding, vaccinations, deaths – including cot deaths – and accidents in the home are routinely assessed for all children monitored at the ONE (ONE computer databank);

b) Provide all children with medical assistance. This is a routine activity inherent in all ONE consultations. An initial contact visit is made to the home to ensure preventive monitoring of this kind;

c) Combat disease, malnutrition, risks of pollution of the natural environment, etc., using easily available technologies. The activities of Health Education take into account the resources available to all difficulties or problems, including activities to combat lead poisoning (saturnism) and carbon-monoxide poisoning (especially in winter), and prevention of tuberculosis, etc.;

d) Provide mothers with appropriate antenatal and postnatal care. Private initiatives are thus supplemented by the activities of the Births and Children Office (ONE). ONE antenatal examinations cover about 25 per cent of pregnancies in the French Community. The ONE offers a variety of consultant services: perinatal centres, district consultations, hospital consultations, etc. These services are very widely used by pregnant women from the most disadvantaged population groups. In this area, the ONE initiative takes the form of the establishment of priority programmes (priority objectives) and the issue of a practical guide for doctors and medical-social workers. The manual for pregnant women is about to be revised; in addition to information concerning the antenatal monitoring programme, the manual will contain information concerning all social measures surrounding the birth, as well as health-education messages;

e) Provide information on child health and nutrition. These objectives are attained through the progressive institution of priority programmes, including promotion of healthy living and breastfeeding. All these programmes appear in the Guide to Preventive Medicine for Babies and Infants;

f) Advise parents as part of the health-education activities conducted through the ONE antenatal consultations, in coordination with the competent non-ONE bodies. The ONE supports the objective of a pre-conception visit. It has a medical/social databank, which it uses to assess the quality and accessibility of perinatal prevention services. During their activities on the ground, in close contact with the population, the medical-social workers collect information concerning the continuous monitoring of mothers and children, and social data concerning children and their families. Anonymous data are compared to a set of social and demographic indicators;

g) Strengthen prevention. Prevention calls for involvement of different partners in the school milieu: parents, the educational community and the organizing authorities. But it may also require increased dialogue with non-school actors and with the local authorities. It should be initiated early in the education cycle (from nursery school) and constitute one of the pillars in the struggle against injustice in the area of health. Priority is given to health-promotion experiments that are part and parcel of a global, coherent school education project.

541. The French Community Commission of the Brussels-Capital region exercises no authority in the area of children's rights, but it forms part of a working group on sex offences, especially those linked to children and adolescents. There are plans to establish a specialized Brussels centre, whose tasks will include collaboration with the mental-health services and infant-reception centres regarding both secondary and tertiary prevention missions and the curative care given by these institutions.

3. In the Flemish Community

542. The strategic plan Preventie Kinderzorg (Prevention health care for children) was implemented within Child and Family in 1996. The purpose of this plan is to bring about a qualitative improvement in the assistance on offer and expand the area of care from the strictly medical to the psychosocial. Moreover, concepts such as "teamwork" and "parental participation" have become more important for disadvantaged families.

543. A variety of services adapted to each family's individual needs and requirements are proposed for parents of children aged 0-3. A specific care package has thus been developed, in addition to the basic package, for disadvantaged families, families in which there is a risk of child abuse, or families displaying other individual risk indicators (post-natal depression, multiple births, disabled children, non-integrated

544. The first component is the children's clinics created by various organizing authorities and approved and subsidized by Child and Family. There, parents may seek a consultation with a Child and Family doctor (or paediatrician) and nurse. While the doctor addresses the medical side (growth, development, vaccinations, etc.), the nurse provides psychosocial and pedagogical counselling and information. Child and Family's vaccination programme provides inoculations against polio (compulsory by law), diphtheria, whooping cough, tetanus, measles, mumps, rubella, meningitis (Haemophilus influenzae B) and hepatitis B. Child and Family does not impose this vaccination programme as such, finding it more helpful to alert parents and provide them with clear information, and drawing their attention to its benefits.

545. Preventive-care centres have been established in regions that are home to large numbers of disadvantaged families and are backed up by teamwork and other activities. Statistics on poverty in Flanders and on the consultation offices' field of activities are annexed hereto.

546. The Child and Family nurses also provide home support. In many cases, they had already visited recently delivered mothers in the maternity ward, and agreements reached for a few home visits during the child's first months. When necessary, the nurse is assisted in her work by an intercultural collaborator or a person with experience in issues concerning disadvantaged milieux, so as better to coordinate the supply and offer of assistance. It has become apparent that these collaborators brought an added benefit to the services provided for specific target groups of immigrants, who might be disadvantaged.

547. The nurses work in teams by region (some 60 in Flanders) and do a daytime shift at the regional home, to which parents can come to ask all the questions they wish about education, feeding, care and other matters. Child and Family also disseminates general information in the form of brochures, video recordings, periodicals, etc.

548. Prophylactic care is then taken over by the School Medical Inspectorate (IMS) for children attending school. The Flemish Government Order of 30 July 1985 referred to in paragraph 315 of the initial report is still in force. The Flemish Community sees to it that the recognized centres and IMS teams provide young people with high-quality care. The IMS does not merely conduct clinical examinations, but is mainly involved in primary, secondary and tertiary prevention. There is an absolute separation of preventive health-care and curative health-care: no IMS centre or health-care centre may be dependent on a health institution.

549. The psychological-medical-social centres and the school medical inspection centres will be integrated by the new Decree on guidance centres for pupils (see above). The definition of the School Medical Inspectorate's mission will remain in force in its entirety.

550. The Flemish Community subsidizes a study *Jongeren en Gezondheid* (Young people and health), which is linked to an international study conducted under the aegis of the World Health Organization. Its purpose is better to detect young people's attitudes and behaviour with regard to health and the milieu in which they develop. Its purpose is also to keep an up-to-date data system on young people's lifestyle and health. Scientists or persons working on the ground may use these data to refine their activities.

551. Furthermore, an international network of experts in that field will be set up and the continuation of health education and promotion will be encouraged.

D. Social security and childcare services and facilities (art. 26 and art. 18, para. 3)

1. Social security (federal level)

552. The right to family allowances has been divorced from parents' occupation or social situation in the regulations on family allowances for providing families with children with extra income. In view of the current trend to ensure individual social-security rights, the right to family allowances is inherent in the child.

553. New, more realistic principles have been in force since 1 October 1997 with regard to the regrouping of child beneficiaries. Regrouping no longer depends on the financial status of the recipient (status of employer, guaranteed family allowances, self-employed persons, and government officials); regrouping around the beneficiary has become the general rule. For children brought up by different beneficiaries, mention of the name of the beneficiaries in the national register and the existence of a legally recognized bond between them (spouses, live-in partners and relatives to the third degree) suffices.

554. The range of circumstances in which allowances may be paid to the child himself is being extended so as to prevent loss of the right to family allowances. Such allowances are now paid when children attain the age of 16 (previously 18), when they have a separate principal residence or when they are themselves beneficiaries for their own children.

555. Generally speaking, certain provisions of the regulations were adapted following the introduction of a new concept in civil law: that of "joint parenthood", meaning the shared exercise of parental authority, even when the parents do not live together, and regardless of the parent with whom the child resides. A legal fiction was instituted as if the family were the same and still a single unit (according to the principle: assignee father and beneficiary mother). When parents have opted for the exclusive exercise of parental authority by one or other of them, that de facto situation will be taken into account.

556. The "joint parenthood" rules were further refined in 1998 with the extension of the legal fiction's field of application to the parent outside the child's family, on the one hand, and to the parent or any other potential beneficiaries (new partner or grandparents, for instance), on the other. Moreover, the father with whom the children actually stay may request the Labour Tribunal to appoint him beneficiary.

557. A number of amendments have been made in favour of adopted children and children placed in foster homes. Thus, as of 1 January 1993, an adoption bonus is paid to the adoptive parent in replacement of limited right to the birth grant, and the criteria for payment of this bonus have been broadened. The adoption certificate no longer needs to be established during the year following the adoption, and the bonus may be paid even when a birth grant has already been paid for that child. The right to the birth grant has also been extended, in certain conditions, to children in foster homes.

558. As of 1 April 1995, each child of a multiple birth is deemed to be a first-born child for purposes of the birth grant. A check is no longer carried out to discover whether such children are the first-born of their father and mother: the highest birth grant will always be paid.

559. The family-allowance regulations were also recently adapted to the special case of missing children, and children absent against their will, of whom there is no news and who probably did not die following a catastrophe or an accident. In these cases, the National Family Allowance Office for Wage-earners may, as of 1 April 1996, continue to pay those allowances to the family in certain conditions. This right may be exercised over a period of five years following a disappearance. These new regulations are retroactive for five years and also apply to public officials.

560. In 1998, special measures were also taken to compensate for the absence of a parent or spouse. The right to an additional orphans' allowance and the right of the surviving spouse were expanded: the condition whereby six monthly allowances had to have been received in the name of the departed person, must now be fulfilled during the 12 months preceding the de facto absence as opposed to the 12 months preceding the official declaration of that absence.

561. A legal basis for granting the disability-insurance supplement to female workers recovering from giving birth to a child was established in 1998 retroactively to 1 January 1990. The required six-month waiting period may cover ordinary sick-leave and the period of recovery from giving birth. Women workers with no maternity benefit, convalescing from giving birth are now also entitled to family allowances, as well as a supplementary benefit.

2. Childcare services and facilities

a) At the federal level

562. In the past five years the National Family Allowances Office for Wage-earners has actively contributed to the creation and continuity of child-protection services and infrastructure. The Collective Equipment and Services Fund has paid day centres for children lump-sum subsidies as a function of the number of days the children of wage-earners attend (Royal Decree of 25 September 1974) and lump-sum allowances have been granted on a pro rata basis for to the number of days, before 7 a.m. and after 6 p.m., that sick children of wage-earners are looked after (Royal Decree of 17 July 1991).

563. Since 1994 the Fund has also been financing out-of-school care initiatives; it devotes the employer contribution of 0.05 per cent – intended for childcare and granted following inter-occupational agreements – to financing childcare initiatives to respond to the needs of working parents. It is particularly involved in:

- out-of-school care of children aged 2 and a half to 12 years;
- care of sick children aged 0 to 12 years;
- flexible care of children aged 0-12 years;
- emergency care of children aged 0-3 years.

564. The Royal Decree of 19 August 1997 and its accompanying special regulation of 2 September 1997 last established the modalities for the granting of these subsidies.

565. With these measures, the National Office has helped, independently or in collaboration with other authorities, to develop childcare facilities that solve working parents' childcare problems at a reasonable price.

566. As for services and activities for the children of members of the Belgian Forces in Germany, the Department of National Defence guarantees them the basic services provided in Belgium at the federal and Community levels (education, health, etc.). Moreover, the Central Office for Social and Cultural Promotion monitors the quality of life of the military community in Germany through a series of services to families (family helpers; schooling in winter-sports, seaside or forest resorts; childcare in the home, etc.).

b) In the French Community

567. The Births and Children Office (ONE) has always endeavoured to provide families with access to a variety of receptor services adapted to their needs.

568. Partnership arrangements, notably with the regions and the Federal State, have been developed with a view to meeting the specific needs of parents involved in a labour reintegration process or working flexible hours, or even to meet childcare needs outside school hours, while maintaining high-quality services that take the child's best interests account.

569. The regulations governing childcare in the subsidized and non-subsidized sectors were harmonized in order to guarantee high-quality reception for all (French Community Government Order of 23 September 1994 establishing the conditions to be met by child-minders at home and the heads of children's homes, as well as the modalities of medical surveillance, article 6, paragraph 13).

c) In the Flemish Community

570. The terms "foster families" and "care institutions" (*pleeggezinnen*) used in paragraph 333 of the initial report lead to confusion; the term "crèches" (*opvanggezinnen*) would be more appropriate. It should be pointed out that child-minding is not only accessible to the children of working parents; it is also available to the unemployed and must not be seen solely as a solution to meet the needs of working parents, but as a child service per se (see statistics attached).

571. The childcare centres (*Kinderopvangcentra*) mentioned in paragraph 334 of the initial report have been replaced with childcare and family-support centres (*Kinderzorg en Gezinsondersteuning*).

572. The childcare regulations were amended in 1997 (see paras. 330 to 336 of the initial report). A stricter form of control, with many possibilities of sanctions, has been put in place for private child-minders. The policy on out-of-school care has been prepared with the focus on local consultations, concentration of forces at the educational level and the raising of the age limit to 12. Child and Family governs, subsidizes and monitors such care, whatever its form. As part of this monitoring procedure, the educational quality of the care occupies a central place. Assessment tools centred on the child's experience are being continuously developed; the child is the main person concerned, although others, such as parents, are also taken into account.

573. In 1998, the Minister submitted a draft policy plan to the Child and Family Administrative Council. Particular emphasis was placed on more accessible care for disadvantaged children, development of parental participation, and continuous improvement of quality.

d) In the German-language Community

574. The child-minding service currently has 75 approved child-minders supervising 250 children in the Community's nine communes. The various types of collective vacation child-minding services catered to over 400 children in 1995 and 1996. A crèche was opened in Eupen in 1994 with a reception capacity of 15 places, which will be increased to 18 in 1999.

E. Standard of living (art. 27, paras 1-3)

1. At the federal level

575. The Act of 30 April 1995 amended article 203 of the Civil Code, which set forth the role of fathers and mothers. It includes the obligation to assume, according to their means, the maintenance, monitoring, raising and education of their children (see above).

2. In the French Community

576. To supplement the initial report, mention should be made of the initiatives taken to support specific associations or projects seeking to train, occupy and supervise the most disadvantaged. They include:

a) Homes or youth centres where young people have the right to assemble and relax and where the fundamental principle is to listen to them, their needs and requests, so as to respond to them while ensuring that they play an integral part in the responses;

b) Various programmes and initiatives have been established and are supported by the French Community in order to occupy the most disadvantaged children during school holidays:

i) the operation *Eté jeunes* ("Young People's Summer"), which organizes cultural, sporting and socio-educational activities for young people aged 9-18 from socio-economically and culturally disadvantaged backgrounds,

ii) the aid-to-creativity programme contracts that support the initiatives of youth centres dealing with the promotion of cultural tools as a means of youth integration;

(iii) the operation *Quartier libre* (Off duty) the purpose of which is to promote young people's expression as a lever or action against social breakdown. This programme is predominantly intended for children aged 12-20 and its priority targets are communes or districts in priority-action areas or districts with cumulative social and cultural problems;

(iv) programmes presented by youth associations to engage young people so that they become active and critical responsible citizens.

577. Moreover, the Decree of 14 July 1997 on organization of health promotion in the French Community specifies that particular consideration must be given to population groups with cultural differences in an unfavourable social, health or economic situation. Priority is assigned to neighbourhood activities specifically aimed at these groups, and, more particularly their children.

3. In the Flemish Community

578. The *Vlaams Fonds voor Integratie Kansarmen* (Flemish Fund for the Integration of Disadvantaged Populations), referred to in paragraph 370 of the initial report, has been replaced by the *Sociaal Impulsfonds* (Social Integration Fund) (Decree of 14 May 1996, *Moniteur belge* of 1 June 1996). The Social Integration Fund implements a maximum of measures to improve the quality of life and the ambient framework in towns and communes, especially in disadvantaged districts, to fight social exclusion and promote well-being.

579. Three criteria directly related to child and youth issues are required for securing money from the Fund:

- number of children, aged 0-19, including those living with a single parent;
- number of young people receiving ambulatory, semi-ambulatory or residential care through the Special Assistance to Young Persons;
- number of births in disadvantaged families.

580. Research has shown that children are the prime victims of poverty. Hence, the guarantee of adults' socio-economic rights has a direct influence on children's rights. Thus, the Flemish regulations (Decree of 20 December 1996 and the Flemish Government order of 16 September 1997), which confer on all persons finding themselves in the Flemish region the right to minimum supply of electricity, water and gas, is vital for minors.

581. Within the *Vlaamse Intersectorale Commissie Armoedebestrijding* (Flemish Intersectoral Commission against Poverty) (see above, Part II. B. 3(e)), attempts are being made to implement the recommendations of the 1994 general report on poverty, which is of great significance for disadvantaged minors.

582. The Flemish Housing Association also pays special attention to children by insisting that bedroom walls are soundproofed to ensure sound night-time sleep. Also stressed is the importance of soundproofing between homes. There is also a requirement that terrace balustrades and staircase ramps are so designed as to be totally safe for children. With regard to safety, emphasis is also placed on the need for judicious location of social housing in the environment (school, crèches, shops and services).

583. A number of priority rules governing the location of social housing take account of new "family structures" as far as possible. For instance, when parents rear their children in joint-parenthood, attention is paid, for both parents, to the number of persons in a household considered in determining reasonable occupation levels. The same principle applies to children living alternately with their parents, such as those who live with their parents only at the weekend.

584. For social reasons, a minor may also rent social housing under a particular procedure.

4. In the German-language Community

585. Since the adoption of the Decree of 9 May 1994 on emergency reception homes, the Government has approved 56 homes, which at the beginning of 1998 sheltered a total of 144 persons (including children) at rents adapted to those families' very modest incomes. The Ministry of the Community subsidized the purchase, renovation and rental of these homes for low-income families.

586. A social report (similar to the poverty report) group was established to collect data on the social situation in the German-language Community and advise on social issues. This group has chosen the situation of single-parent families as its priority theme for 1997 and 1998; a survey on the subject is under way.

VIII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

1. In the French Community

587. The objectives of education are clearly set forth in the "Missions of the School!" Decree of 24 July 1997.

a) Equality of all children at school

588. The French Community prohibits and condemns any measure likely to establish a hierarchy among establishments and the various forms of education (art. 10 of the Decree). It wishes to ensure access to all types of training for girls and boys.

b) Free education (art. 100 of the Decree)

589. Education - at least part-time - is compulsory to the age of 18. During the period of compulsory schooling, access to education is free for all children, Belgian or otherwise.

590. The Decree of 24 July 1997, defining the priority missions of basic education and secondary education and organizing the structures needed to attain them, determines what expenses are authorized during schooling; non-payment of these expenses may not constitute a motive for refusal of registration, or of exclusion.

591. Credits obtained in the general arts and technological subjects may be upgraded through higher education (art. 33 of the Decree) in order to allow everyone access to higher education.

592. Various measures foreseen by the Decree on missions of education aim at improving of the quality of the school system so as substantially to reduce the number of young people who drop out early. Measures include clarification of the rules of the education system, measures designed to ensure compliance with compulsory schooling, limitation of repetitions (particularly to reduce the number of pupils who reach the age of the end of compulsory education without completing the course).

c) Access to education

593. All schools are co-educational and enrol boys and girls without discrimination and assure them of access to all types of training.

594. In order to respond to the educational needs of disabled children who cannot effectively attend regular schools, special education (Act of 6 July 1970) is organized at the nursery, primary and secondary levels.

595. The world of education works in cooperation with psychological-medical-social centres to provide guidance for pupils. These centres monitor pupils at the psychological, psycho-pedagogical, medical and social levels.

d) Assistance to disadvantaged children

596. This assistance comprises several aspects:

a) The Decree of 30 June 1998 (attached hereto), designed to provide all pupils with equal opportunity for social emancipation, notably through affirmative action, distinguishes schools or priority establishments, on the basis of essentially socio-economic criteria such as housing, household income, number of unemployed and minimex beneficiaries. The immigration criterion is also taken into account, but only if it corroborates the preceding criteria. Additional personnel or material resources are assigned to priority schools in order to strengthen supervisory staff (school mediators, social workers, language-adaptation classes and smaller class sizes) and also for the purchase of equipment to improve the living environment, install and stock libraries, and enable children to participate in cultural and sports activities;

b) In basic education, activities are carried out to help the learning of French as a second language;

c) In secondary education, projects to improve the links between the world of education, parents and the district are put in place in disadvantaged areas;

d) Promotion of multicultural education to handle cultural differences at school and in the classroom;

e) The French Community Government has also entered into partnership agreements with Greece, Italy, Morocco, Portugal and Turkey to enable requesting establishments to benefit from the presence of teachers originating in those countries (original language and culture (LCO) programme.

f) A bar-code system has been put in place to combat school dropout and the better to apply the principle of the right of the child to education. Thus, children in basic education with a certain number of unexplained absences are reported to the counsellor for assistance to young persons by the inspector (art. 107 of the missions Decree). In secondary education, minors with more than 20 half-days of unexplained absences are reported by the head of the school to the Youth Assistance Council (arts. 84 and 92 of the Decree of 24 July 1997) and to the schools' psychological-medical-social centre;

g) Since 1995, a compulsory education pilot unit has been in existence within the administration. It organizes external assessments of pupils' knowledge at certain periods in their school career. These assessments enable teachers to gauge the level pupils have attained and adapt their teaching accordingly (arts. 55, 61, 72 and 73 of the Decree).

e) Children whose parents are in an illegal situation

597. A minor pupil living illegally on the territory may be taken into account for purposes of supervision and subventions, on condition that he or she has regularly attended school for four months (Decree of 30 June 1998, art. 41).

f) Appeal against refusals of enrolment and disciplinary measures

598. The missions Decree of 24 July 1997 established a support committee for pupils who have been refused school enrolment. It also defines the procedure to be followed in the event of exclusion from a school. This procedure imposes, inter alia, the hearing of the pupil, and organizes an appeal against an

exclusion decision. The Decree also provides for assistance to enable the excluded pupil to be re-enrolled in another school.

g) Appeal against decisions of failure

599. There is an internal conciliation procedure for hearing appeals against decisions of failure or limited success. An appeal may be lodged with the appeals council once the internal procedure has been exhausted.

h) International cooperation in education

600. Members of the French Community collaborate, as expert educational leaders, with the ONE, UNESCO, the Council of Europe, etc.

601. The Community also plays a very active role in the Conference of Ministers of Education in French-speaking Countries (CONFEMEN), which comprises 35 countries, has three fundamental missions:

- mutual information on developments in education systems, reforms under way, etc.;
- reflection on topics of common interest with a view to cooperative actions;
- consultation among ministers and experts with a view to establishing common positions and formulating recommendations to support regional and international policies on education and training.

i) Information

602. The Decree provides for a series of measures to supply information on higher education accessible to all pupils and to give them educational guidance (arts. 23, 32, 49, 59 and 60).

603. In the culture sector, the French Community supports the work of youth information centres. The latter are extremely useful in that they afford young people access to information on numerous subjects of interest to them, such as studies, vocational guidance, their rights, unemployment, lifelong training, etc.

j) Active participation of students

604. The educational missions Decree confers on secondary education pupils, and, on certain conditions those in primary education, a more important role in school-life management, enabling them to be represented on the participation council that each school is required to set up.

2. In the Flemish Community

605. See the comment on article 2, above, and the statistics attached.

a) Enrolment

606. In the Flemish Community, pupils may only be refused admission to the public education system if they do not meet the entry conditions (age, primary-education certificate affording access to secondary education, etc.). Such education is considered to be a public service and must therefore be accessible to all users.

607. The head of a subsidized denominational school may refuse enrolment for other reasons (for instance, if the parents do not accept the school rules and refuse to sign them). With the 1997 Decree on basic education, this right enjoyed by denominational schools is linked to certain rules. Thus, any refusal must be communicated and explained in writing to the parents within four days and pupils may not be refused on the grounds of indecency or lack of respect for human dignity.

608. Children living illegally in the country also have the right to education. The Ministerial Circular of 10 November 1983 was expanded in September 1994; a person who cannot provide proof of identity must now be admitted to a school. However, it must be stressed that the right to education is not a guarantee for obtaining residence authorization.

609. In the special youth assistance sector, prevention projects designed to ensure the right to education are under way: Buitengezet op school (expelled from school) in Antwerp and a homework project in Louvain.

b) Sick children

610. Children who are ill for long periods and cannot therefore attend school also have the right to education. Classes in which sick children may study have been created in a number of hospitals. Article 34 of the Decree on basic education provides that schools are obliged to offer remedial courses for sick children who have stayed at home long periods.

c) Compulsory education

611. The Flemish Community has launched a project on monitoring the obligation to attend school for the academic years 1996-97, 1997-98 and 1998-99. There are four aspects to the problem of truancy:

- not all persons subject to compulsory schooling are actually enrolled in a school at the beginning of the school year;
- problems of absence arise during the school year;
- children who change schools during the school year do not always transfer to another school;
- lastly, there is the problem of exclusion: pupils expelled from a school do not easily find another school that accepts them.

612. New regulations will be prepared for all Flemish secondary schools on the basis of experience acquired with this project.

613. In addition, the new Decree on pupil guidance centres expands the role they play in compulsory education. Monitoring of compulsory education must make timely detection of pupils with possible problems so that they can be assisted during their school career, with the resulting drop in the number of failures. A joint committee of experts from education and community institutions for special assistance to young persons is currently developing regulations on compulsory schooling for young people in institutions to guarantee their school career to the maximum. Collaboration with pupil-guidance centres is an important component.

614. Measures designed to promote regular attendance and reduce early dropping out of school form the basis of projects for school promotion and for integration into the world of work, in the framework of the

Flemish Fund for the Integration of Disadvantaged Populations, transferred to the Social Action Fund (see above).

3. In the German-language Community

615. The aims of education are spelled out in the Decree of the German-language Community concerning the mission of the organizing authorities and teaching personnel and concerning general educational and organizational regulations of regular basic and secondary education, adopted by the Council of the Community on 31 August 1998.

616. Society entrusts the organizing authorities, schools and all school-training actors with a mission.

617. Society requires that schools impart education that:

a) takes account of pupils' social and cultural origins and promotes equal opportunities; the school must be accessible to boys and girls alike, without exception;

b) inculcates respect for others and responsible behaviour towards other people and the environment; it teaches receptiveness to the world and promotes European thinking and multilingualism;

c) develop a sense of the common good and elementary democratic practices in all pupils and prepares them to occupy an active and creative place in economic and professional life;

d) transmit know-how and knowledge, develop capabilities and skills; education teaches openness to culture and science and respect for the religious and ideological beliefs of others;

e) enable all pupils to acquire a maximum of skills.

618. Each organizing authority (arts. 16-19) must:

a) prepare its own educational project for its schools, which must be compatible with the mandate of society;

b) elaborate activity plans for its nursery schools and syllabuses for its primary and secondary schools; the latter must, perforce, retain the key (minimal) competencies defined by the Decree of the Council of the German-language Community;

c) freely establish valid didactic principles and educational methods for its schools, on the proposal of the Education Council comprising a group of teachers democratically elected in each school.

619. Each school (art. 20) defines, on the advice of its Education Council, its own pedagogical profile, which must be compatible with the mandate of society and the educational project of its organizing authority. The latter comprises, inter alia, the following elements:

a) pedagogical concept and structure;

b) method for assessing pupils' development;

c) support and remedial measures for pupils in difficulty, and integration measures for disabled pupils in regular full-time or part-time education;

d) appeal procedures for contesting the Council's or headship's administrative or disciplinary decisions. An appeals chamber is envisaged to rule whether the legal and statutory provisions are observed or not (art. 38);

e) pupils' and parents' involvement in school life.

620. In addition, the draft Decree envisages essential regulations on pupils' rights:

a) the free choice of pupils, their parents or their guardian between denominational education and public education subsidized or organized by the German-language Community (art. 24);

b) free education (organized or subsidized by the German-language Community) for all children, whether Belgian or not, during the period of compulsory education. The costs for services or teaching or pedagogical resources authorized during schooling will be determined by decree (art. 32);

c) regular internal and external assessment of each school;

d) the right to information for pupils, their parents or guardians relating to all school matters concerning them, including the right to be advised in cases of difficulty (art. 36);

e) the pupils' right to normative and formative assessment of their abilities (arts. 76-82).

B. Aims of education (art. 29)

1. In the French Community

a) Human rights education

621. The aims of education have been clearly defined in the Decree of 24 July 1997:

> "The French Community, for the education it organizes, and any organizing structure, for subsidized education, pursue simultaneously and democratically the following objectives:
>
> promoting and developing pupils' self-confidence and personality;
>
> encouraging all pupils to amass knowledge and acquire skills which make them capable of learning throughout their lives and playing an active part in economic, social and cultural life;
>
> preparing all pupils to become responsible citizens capable of making a contribution to the development of a society which is democratic, supportive, plural and open to other cultures;
>
> giving all pupils equal opportunities for social emancipation (art. 6)".

622. The Minister for Education set up a "Democracy or Barbary" unit in 1994. Composed of a multidisciplinary, inter-network team, it is responsible for coordinating matters relating to citizens' education. It has prepared a human-rights file, a compilation of official texts relating to human rights in the form of a book and a computerized database, as well as a number of files on human rights and democracy. This educational coordination body also organizes a variety of events on these topics (meetings of 8 May, New York, Strasbourg, Geneva Human Rights Itinerary, etc.).

b) Respect for parents and cultural values

623. The Missions of the School Decree clearly states, especially in its articles 8 and 9, the importance of respect for each person's personality and beliefs; the transmission of the cultural heritage in all its aspects, the discovery of other cultures; and the safeguarding of memories of past events.

624. Reference is made to moral and religious education syllabuses (art. 8, paragraphs 9 and 10; and art. 9, paragraphs 7 and 8), and to other programmes such as the history programme, which affords pupils the opportunity to open themselves to different cultures and should induce them to develop tolerance, rejecting cultural prejudices and stereotypes.

625. A multicultural education unit has been established and environmental education is provided (art. 16, paragraph 3).

626. The initial project should make it possible to attain these educational and pedagogical objectives.

c) Teacher training

627. A diversified, but not compulsory, offer of lifelong training for teachers exists in the French Community. It had previously been conducted for the most part on the initiative of the Inspectorate: educational days, and residential courses organized in connection with the normal professional duties. Alongside this training, each network has now established training centres (see Decrees of 24 December 1990 and 16 July 1993).

d) Programme, equipment

628. Article 9 of the Decree requires that the definition of syllabuses and educational projects should be adapted to the general objectives and the various options it advocates. It also provides for the creation of a programme commission, and the finalization of standardized evaluation tests, corresponding to the knowledge and skills to be developed, and the availability of educational tools for the various organizing authorities.

2. In the Flemish Community

629. The Flemish Community is in the process of establishing final objectives and development aims. These have already been established for basic education and the first cycle of secondary education. Those for the second and third cycles of secondary education are in the course of preparation.

630. The notion of final objectives is part of a new approach to the monitoring of educational quality, one in which the point of departure is the teacher's independence.

631. Generally speaking, these objectives cover a minimum of knowledge, comprehension, skills and attitudes that a pupil must acquire. Child-rights education is one of the explicit requirements; pupils must be capable of illustrating the importance of basic human rights and children's rights. The first cycle of secondary education aims to develop social skills and promote civic education; schools are free to choose their means of attaining them.

632. Co-educational education poses less and less of a problem; denominational schools are becoming increasingly co-educational and subsidized public schools (created by provinces, towns or communes) that are not yet co-educational have, under the new Decree on basic education, until 1 September 2000 to become so.

633. Flemish museums also play an educational role with regard to children. The *Natuur-, Milieu- en Educatieve Centra* (Nature, Environment and Education Centres) of the Flemish Community inculcate respect for the environment through educational activities such as the *milieuboot* (environment-friendly boat) projects and *groene school* (green school), whose targets include children. The 8 July 1987 Flemish Government's environmental policy plan also contains activities and initiatives relating to children's education.

634. For its part, *Vlaamse stichting Verkeerskunde* (Flemish Road Traffic Foundation) has formulated a teaching method suitable for young people, whereby they learn the rights and obligations of all road users, to adopt a defensive attitude to traffic and to choose an intelligent means of transport.

C. Leisure, recreation and cultural activities (art. 31)

1. In the French Community

635. As of 1966, the Government of the French Community has been developing the *Quartier libre* (Off duty) operation. This initiative encourages youth associations in priority action areas to work in partnership for a year at least, the aim being a high-quality finished cultural product. Synergy among the various culture sectors is encouraged through partnerships. Projects submitted must comprise, in addition to the project handler, an association or person with guaranteed competence in cultural expression, as well as a dissemination operator.

636. For some years now, the Government of the French Community has also been supporting the not-for-profit association *Carte jeunes* (Youth Charter), responsible in general for implementing on the Community's territory the Lisbon Protocol and the Brussels Charter and, in particular:

- developing regional activities in collaboration with cultural activity promoters to increase the dissemination of *Carte jeunes*;
- using available resources to multiply the cultural advantages offered by *Carte jeunes*;
- helping, through its support the French Community's exchange programmes, to implement activities designed to combat the social exclusion of young people, promote their capacity to become independent citizens, and develop their participation in cultural life and their mobility.

637. As for extra-curricular activities, the French Community Commission is developing a policy of cultural and artistic activities in schools (Operation Culture-Education). It also assists school sports federations and supports projects for integration through sporting activities for disadvantaged young people. Street sports, in the form of championships (basketball, volleyball and football) in parks and on squares and streets, are aimed at young people.

638. The Commission provides financial support for children's homes, childcare centres and youth movements. It is developing its own activities, such as coordination of street-activity projects, through the association *Atout-Projet* (Asset project). It also supports the dissemination of Theatre and Song shows for a young public, through "art and life tours" and school shows.

2. In the Flemish Community

639. Since 1993, the *Commissariaat-generaal voor de Bevordering van de Lichamelijke Ontwikkeling, de Sport en de Openluchtrecreatie* (BLOSO), a Flemish public-interest agency which promotes sport among other things, has been conducting an active youth-sports promotion campaign. With this campaign, BLOSO is endeavouring to increase the participation rate of young people in sport and encourage young supporters joint clubs so that they can practise a sport regularly on a permanent basis. The main target of the campaign is young people aged 12-18, this being the cohort with the highest percentage of dropouts. All persons involved in sport (sports federations, communal and provincial sports centres) also conduct an active policy of sport for youth.

640. The objectives and missions of *Stichting Vlaamse Schoolsport* (Flemish foundation for sport in schools) were established on 1 January 1994 (Decree of 1 December 1993 establishing conditions for the approval and subsidization of the Foundation for Flemish School Sports, *Moniteur belge* of 22 January 1994). Its purpose is to:

- encourage, develop, and take initiatives for the promotion of, school sports; propose sporting activities;

- promote collaboration with all organizations pursuing the above-mentioned aims at the local, provincial, regional, national and international levels.

641. Sports associations are required to respect the age limits of participants or ensure that they are respected. They must also ensure a minimum of medical, paramedical and psychological supervision of participants when they prepare for, or participate in, certain sporting events (Decree of 27 March 1991 on sports with respect for health obligations, *Moniteur belge* of 11 June 1991).

642. Specific measures are taken to train young cyclists and protect them in the practice of their sport (Decree of 19 April 1995 establishing the conditions of training in cycling, *Moniteur belge* of 8 July 1995; the Flemish Government Executive Order of 26 April 1995 establishing the conditions for participation in cycling races and trials, *Moniteur belge* of 29 July 1995).

643. These conditions include:

- educational and technical-sporting qualifications required of cycling trainers;

- training programme;

- the age at which training may commence (12) and from which young people may participate in races (15);

- the maximum number of cycle races per year, the maximum distances and the maximum age bracket;

- obligation to undergo regular sports-medicine examinations.

644. In the wake of the Decree of 24 July 1996 establishing the status of amateur sportsperson (*Moniteur belge* of 12 September 1997), amateurs enjoy some basic guarantees; they have the right to terminate the contract binding them to their sports clubs each year and are quite free to join a different one. When a contract is terminated, the sports association may not claim payment as compensation in any shape or form. This Decree governs the practice of the transfer of young people within the Flemish Community and

confers total freedom on a young sportsperson. Life membership of a club or the "sale" of talented young players is prohibited.

645. In this regard, reference may also be made to the provision contained in article 17 (see above).

IX. SPECIAL PROTECTION MEASURES

A. Children in situations of emergency

1. Refugee children (art.22)

a) At the federal level

646. Since the Act of 15 December 1980 makes no special provision for minors seeking asylum, the procedure applied to them is the same as for adults.

i) The examination procedure

647. When a foreigner seeks asylum in Belgium, the Aliens Office determines the State responsible for examining the request, in accordance with the Convention determining the State responsible for examining Applications for asylum lodged in one of the Member States of the European Communities, signed at Dublin on 15 June 1990.

648. In principle, when the child's parents have already applied for refugee status in Belgium, the Belgian authorities declare themselves responsible for the child's application. Examination of the admissibility of the request is carried out by the Aliens Office in the first resort, by the Office of the Commissioner-General for Refugees and Stateless Persons (CGRA) in the case of appeal. Examination of admissibility bears on the question as to whether the foreigner may enter Belgium or stay provisionally as an applicant for refugee status, while awaiting the CGRA's decision on the substance. The decision of inadmissibility by the Aliens Office may be the subject of a suspensive emergency appeal to the CGRA.

649. If the Aliens Office declares the asylum application admissible or if the CGRA reverses a decision of inadmissibility, the foreigner is authorized to enter and stay in Belgium, and the procedure moves on to the phase of examination of the justification of the application.

650. This examination falls within the purview of the CGRA. Any decision taken in this framework is subject to an appeal for suspension to the Refugee Appeals Standing Committee.

651. All final decisions are also subject to appeal for nullification lodged with the Council of State. The latter may also hear a request for suspension of the measure (except with regard to the decision of the Refugee Appeals Standing Committee.

652. The asylum application is examined in the light of the provisions of the Geneva Convention on the Status of Refugees of 28 July 1951 (enacted on 26 June 1953), the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 (enacted on 13 May 1995), the International Covenant on Civil and Political Rights of 19 December 1966 (enacted on 15 May 1981) and, with regard to minors, the Convention of the Rights of the Child of 20 November 1989 (enacted on 25 November 1991).

ii) Measures taken

653. The measures taken on behalf of minors were expounded in the preceding report (p. 101, para. 406); however, certain specific characteristics may be presented here.

654. Hearing of a minor seeking asylum. A distinction must be drawn between the procedure conducted at the Aliens Office and that applied by the Office of the Commissioner-General for Refugees and Stateless Persons (CGRA). At the Aliens Office, children seeking asylum at the same time as their parents are heard only at the age of 16, except in exceptional circumstances. Children who join parents seeking asylum in Belgium are subjected to a limited interrogation on the authenticity of the alleged family bonds, and the events following their parents' departure from their country of origin. At the CGRA, if children submitting an asylum application in their own behalf are of an age to express themselves (from 6-8 years of age), they are heard in person and alone to the extent possible, with the help of an interpreter if needed. If they are too young, their views may be deduced from the statements of the adult accompanying them. However, children whose parents have lodged an asylum application are only questioned if necessary. Unaccompanied minors – if of an age to express themselves – are questioned in person, at both the Aliens Office and the CGRA. Otherwise, information is sought from the persons effectively accompanying them.

655. Respect for the wishes of the child. When minors seeking asylum is accompanied by someone other than their parents, the Aliens Office checks that person's status and the parental authorization, in order to avoid any kind of trafficking. The child's wishes are also examined. At the CGRA, the instructions are to determine, as far as possible, the wishes of the child and its parents if the child is not accompanied by both parents.

656. Processing of asylum applications. The asylum application of a child accompanying its parents, or one who has come to join them in Belgium, is processed at the same time as the parents' application.

657. Support for minors seeking asylum. In certain situations there are no specific regulations concerning guardianship of unaccompanied minors seeking asylum, so that protection of their interests is not guaranteed. The legislator has entrusted the task to the Public Social Assistance Centres (CPAS), but, in practice, it is seldom implemented.

658. Verification of minor status. It is not always easy to determine whether a young foreigner is a minor or adult. The papers in the possession of children of foreign origin are not always authentic and adults are sometimes wrongly declared as minors. In the case of young undocumented foreigners, verification is even more problematical. Medical examinations are not systematically carried out to determine the age of young foreigners as precisely as possible when their statements or the papers in their possession are dubious. This medical examination is important for processing the asylum application; it prevents improper use of special measures and centres intended for minors and facilitates authorities' action when expulsion becomes necessary (see below).

659. Foreign minors whose applications have been rejected.. In principle, unaccompanied minors seeking asylum but whose applications have been rejected may not be expelled. However, a number of minors, mainly aged 16-17 and supposedly sufficiently "mature", are expelled in the same way as foreign adults. There is no special regulation governing the ability of nonsuit, but tolerated, minors to remain on the territory.

iii) Training and information

660. For information and training in the field of the rights of a minor applicant for asylum, the Aliens Office and the CGRA have designated agents specializing in the processing of such applications, and in both

those bodies the issues are coordinated by a liaison officer. However, only CGRA agents receive special training, and two detailed internal notes were drawn up on 28 August 1998 in concern for harmonizing their work of processing asylum applications by, or on behalf of, minors.

iv) Statistics

661. Statistics on refugee and asylum-seeking children are attached to this report. It must be pointed out that, in the event of doubt as to the minority or majority of an asylum-seeker, the Belgian authorities use hand X-rays to determine a person's exact age. It should also be stated that many minors deemed to be unaccompanied by the Belgian authorities enter or attempt to enter Belgian territory accompanied by a person who is neither a parent nor a legal guardian.

v) Cooperation

662. In the area of cooperation, in September 1996 the Belgian authorities participated in the symposium organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) on unaccompanied children. The discussion among the various countries' asylum authorities and the international and non-governmental organizations concerned gave rise to a text published by UNHCR in February 1997 and entitled *Guidelines on Policies and Procedures in Dealing with Unaccompanied Minors Seeking Asylum*.

663. In addition, on 26 June 1997 the Council of the European Union adopted a resolution concerning unaccompanied minors who are nationals of third countries (No. C 221 of 19 July 1997), the text of which is attached hereto.

664. Lastly, the Belgian authorities were represented at intergovernmental consultations on asylum, refugees and immigration policies in Europe, North America and Australia, held in 1996.

665. In Belgium, the Inter-ministerial Conference on Immigration Policy established a working group to formulate proposals for improving the reception of unaccompanied foreign minors. Representatives of the federal and Community ministries concerned, UNHCR, the International Organization for Migration, and the Centre for Equal Opportunity and the Fight Against Racism, and the Belgian Ambassador on Immigration and the delegate to the French Community's Rights of the Child participated in the group's deliberations.

666. These deliberations aimed at ensuring coordination among the federal and federated authorities and the competent bodies. After adopting a common definition of the concept of unaccompanied minor, the group took an initial series of measures concerning systematic identification of foreign minors in need of protection, their reception and their legal representation throughout the asylum procedure.

667. Regarding the representation of foreign minors, accompanied or otherwise, the group's discussions focused on the creation of a specific organ responsible for housing the minors, the protection of their interests and psychological, social, medical, financial and educational care.

668. A pilot project of Belgian cooperation with the Philippines deals with the development targeted activities on trafficking in human beings, and sex tourism. This project was inaugurated in September 1996. During the first year, there was an exchange between Ghent University and the Ateneo of Manila; two experts from Ghent attended the National Forum held in Manila in August 1997. Traineeships were organized for NGO leaders and public officials. Several publications in different languages, and a sensitization video were issued. The social aspect was developed by the Women Crisis Centre (WCC), the

Women's Health-Care Foundation (WHCF) and the Women's Legal Bureau (WLB). The activities within the Filipino population are coordinated by a local NGO (WEDPRO).

669. The project leaders have already looked into ways of developing activities on the ground and into how information on emigrant rights, limitation of those rights, the risks involved in illegal immigration and the dangers of sex tourism could be disseminated.

670. This phase having been concluded, draft recommendations are now being studied.

b) In the Flemish Community

671. The problem of unaccompanied minors, about whom the Committee on the Rights of the Child already expressed concern following the initial report, was discussed in the context of the competence of the Communities and the federal authorities. Within the *Gezin en Maatschappelijk Welzijn* (Family and Social Welfare) administration, an official working group known as *Mensen zonder Papieren* (The undocumented) includes representatives of the authorities and the coordinating organizations. Moreover, on the initiative of the Brussels and Hal-Vilvorde committees of special assistance to young persons, a working group known as *Kinderen zonder Grenzen* (Children without borders) is studying this issue from the point of view of the Convention.

672. More specifically, these minors are admitted to centres approved by the committees of special assistance to young persons, Child and Family, the Flemish Fund for the Social Integration of Disabled Persons, and the public social assistance centres (CPAS).

673. Pending a federal regulation, the Flemish Community is preparing a contact point for unaccompanied minors within the Family and Social Welfare administration. The person commissioned to implement this project will prepare the ground and establish contacts that will serve as the basis of care and support for lone minor refugees, for whom there is currently no legal assistance, given the lack of guardianship regulations. When the 1999 budget was drawn up, the minister in charge of assistance to persons, who is also the coordinating minister, provided for a post for special assistance to young people to provide temporary accommodation for this target group.

674. In Flemish policy on "ethnic and cultural minorities", the term embraces foreigners staying illegally in Belgium, who have applied for care and assistance in a state of emergency. Flemish policy on minorities endeavours to establish conditions that will enable them to stay temporarily on Dutch-speaking territory and in the bilingual Brussels-Capital region to be cared for and assisted by the Flemish Community with respect for human dignity and human rights (Decree of 28 April 1998, *Moniteur belge* of 19 June 1998).

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

675. In addition to the information furnished in the initial report, mention should be made of certain administrative and educational measures for the enforcement of humanitarian law:

- a course in the law of armed conflicts, education and training, is provided to all army ranks;
- members of the armed forces trained in the law of armed conflicts serve at all levels of the army, from company to division;
- a team of lawyers and an adviser on the law of armed conflicts are attached to each detachment serving abroad.

676. Following the revelation in April 1997 of the despicable behaviour of some Belgian para-commandos towards Somalis – including children – during the 1993 United Nations peacekeeping operation in Somalia, an in-depth study was undertaken in 1997 within the armed forces. For his part, the Minister for National Defence commissioned the Centre for Equal Opportunity and the Fight Against Racism to conduct a scientific study of the mechanisms that could lead to racism within the armed forces.

677. In the section on Recommendations, the study advocates a series of preventive measures for peacekeeping missions (selection criteria for soldiers to serve in the mission, preparation of operations, psychosocial support) and against racism in the strictest sense (recruitment, instruction and training).

678. The Minister requested the military authorities to pursue this study in greater detail and to submit to him proposals for action concerning each of the recommendations in the report. Several of them have already been implemented, with the continuous integration of lessons learned in the preparation of peacekeeping missions, promotion of a social policy in keeping with the new problems arising in connection with foreign service, and training in humanitarian law (see above).

679. One measure has been the Belgian army's recent introduction of a new regulation for the prevention and punishment of racist and xenophobic acts. The army is also preparing a new code of conduct.

680. It would be advisable to make mention in this chapter of Belgium's exemplary action in the fight against the ravages of anti-personnel mines, whose main victims are children. We are the first country to have taken legal and technological measures to make this struggle effective, notably through a law unanimously passed in March 1995 on a total ban of anti-personal mines.

681. Next, Belgium is playing an important role of awareness-raising at the regional and global level through sustained diplomatic activity.

682. On 12 and 13 October 1998, the Secretary of State for Development Cooperation and Dr Oscar Arias, winner of the Nobel Peace Prize, organized, with the cooperation of the Peace Research Group (GRIP) and Pax Christi, under the aegis and with the active support of the Belgian Government and under the auspices of UNICEF, an international conference on "Sustainable Disarmament for Sustainable Development" on the subject of small arms and light weapons. At this conference a working group studied the situation of children in armed conflicts: children as cannon fodder, children as victims, and children as perpetrators. The issue of child victims of the activities of groups such as the Lord's Resistance Army in Uganda or other militias in countries in conflict was debated.

683. The outcome of this conference, *Brussels Call for Action*, contains passages on the impact of conflicts on children and young people and on other vulnerable groups. Mr Arias and the Secretary of State transmitted this call for action to the Secretary-General of the United Nations, Kofi Annan. Many government participants expressed their support for the principles set forth in the Appeal, which has resulted in constant international follow-up of the issue.

684. Through the conflict-prevention budget line, a number of initiatives concerning child soldiers have been supported, including the project *Reintegration of child soldiers in Liberia*, conducted by the Red Cross. Numerous projects designed to improve the living conditions of children in conflicts are also funded through co-financing of non-governmental organizations.

B. Children in conflict with the law

1. The administration of juvenile justice (art. 40)

a) At the federal level

685. The Act of 2 February 1994 amending the Protection of Young Persons Act strengthened the rights of the child, particularly in the preparatory phase, which assumes considerable importance in practice. It is the legislator's intention that the young person should be a genuine participant in the action against him and therefore guarantees the child the following from the preparatory phase:

- the right to be heard in person before any measure concerning him is taken or amended;
- the assistance of a lawyer from the moment of judicial referral;
- access to the file before his or her first appearance;
- explanation of the motive of orders or other rulings regarding him;
- restriction of the preparatory phase to six months.

686. When the Procurator's Office, which enjoys a monopoly in public actions, decides to refer a case to the juvenile court, it must also, under pain of nullity, summon to appear at the public hearing the minor himself, if aged 12 or more, and the minor's parents, guardians or persons exercising custody of the young person concerned. The parents or other persons having custody of the minor are summoned as potentially having civil liability and because they must be involved in the quest for the measure best suited to the minor.

687. The National Commission for the Reform of the 8 April 1965 Protection of Young Persons Act submitted its final report in February 1996 to a joint meeting of the Justice Commissions of the Chamber and the Senate in March 1996. During 1996 and 1997, it was the subject of numerous discussions at symposia or study days attended by youth-protection professionals, and representatives of the academic world.

688. The Reform Commission recommends a change in the approach to juvenile offences, with a sanctions system of sanctions replacing the protection system established by the Act of 8 April 1965.

689. In July 1997, at the request of the Minister for Justice, Professor Walgrave of the Catholic University of Louvain drafted a report on the possible inclusion of priority for all forms of restorative sanctions in the sanctions model proposed by the Reform Commission.

690. Drafting of the preliminary draft law began early in 1998 and it should see the light of day by the start of the next legislature.

691. In a protection system, an offence by a minor is deemed to reveal a state of risk that justifies a therapeutic-type intervention on the part of the judge - not restricted in time, duration or methods and independent of the seriousness of the offence - which aims to remedy the state of danger.

692. The sanctions system envisaged has its own peculiarity, namely that judicial intervention is both justified and restricted in a delictual act committed by a minor. The aim of the intervention, therefore, will not be to remedy any state of risk covered by youth assistance, but to react to the delictual act itself. Judicial guarantees are vital in such a system, and the principle of proportionality must be observed. The coherence

of the protection system established in 1965 was already weakened with the adoption of the Act of 2 February 1994, which introduced references to the seriousness of the offences, the duration of the measures, and the requirements of public security.

693. The current drafting work of a preliminary law is designed to continue the development observed in recent years and redefine the juvenile court's role with regard to young offenders.

694. The legal guarantees that the Commission for the Reform of the Protection of Young Persons Act recommends granting to minors contain procedural guarantees identical or similar to those granted to adults and adapted to their age and possibilities, and an additional guarantee not currently provided, requiring the police, in the event that a minor is deprived of liberty and referred to the judicial authority, to notify the person or persons vested with authority over the minor and summon them to appear in court.

695. The Commission also proposed the obligation on juvenile court judges to hear the parents or the persons having custody of the minor if they appear.

696. Alongside the drafting process, the Minister for Justice has entrusted the Criminology Department of the National Criminalistics and Criminology Institute with the task of studying juvenile offences and the way they are dealt with by the juvenile courts. One purpose of this study is to examine the appropriateness of the resources available to the judicial authorities in the framework of the enforcement of the 1965 Act. The study should also help determine the means required for enforcing the new Act once it is promulgated.

697. It will also afford more accurate knowledge of the policies on referral to services and institutions, harmonization of which will make for better management of the mass of situations to be handled, a better response to needs, and as diversified an offer as possible.

698. Lastly, this study will help lay the foundations of a permanent instrument for the quantitative and qualitative assessment of juvenile offences and the way in which the various courts handle them. The Communities will be closely associated with the study.

b) In the German-language Community

699. The Government Procurator's Office, which receives a written report against a young offender, may consider it unnecessary to refer the matter to the juvenile court. In that case, it informs the Service of Assistance to Young People so that the family concerned or, possibly, the child alone, may be subject to an assistance measure, imposed by that service only with the consent of the child or its parents.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

a) At the federal level

700. See also the statistics attached to the report.

701. By the Act of 2 February 1994, article 53 of the Protection of Young Persons Act of 8 April 1965, which permitted a minor to be placed in a detention centre for a up to of 15 days if a private home or suitable institution could not be found, was repealed "from a date to be determined by the Council of Ministers".

702. Currently, Article 53 is still in force and minors continue to be placed in detention centres.

703. The Minister for Justice has increasingly established contacts with the Communities so that the alternatives needed for the final repeal of this article can be found and put in place.

704. Also, with this purpose in view, the Minister for Justice entrusted the National Criminalistics and Criminology Institute to conduct a comprehensive scientific study that would afford better understanding of juvenile offences and improve the means for reacting to such offences.

705. Furthermore, where foreigners are concerned, the Act of 15 December 1980 on access to the territory, sojourn, establishment and removal of foreigners contains no specific provision on prohibiting the administrative detention of a foreign minor.

706. However, in practice, minors aged under 18, whether alone or accompanied, are only detained in a closed centre only in two circumstances that rarely arise. Firstly, when a child, accompanied or not, seeks asylum at the border but does not possess the documents required for entry onto the territory, pending the decision on his or her application (article 75/5 of the above-mentioned Act of 15 December 1980, inserted by the Act of 18 July 1991 and amended by the Act of 15 July 1996). Detention in a closed centre is of brief duration as the asylum measure or procedure is then accelerated. Secondly, when the asylum application is submitted within the Kingdom, minors accompanying their parents may exceptionally be kept in a centre together with them when they do not possess the documents required for entry and if it is not their first asylum application (article 74/6 of the above-mentioned Act of 15 December 1980, inserted by the Act of 6 May 1993 and amended by the Act of 15 July 1996).

707. The asylum-seekers centre within the Kingdom (Centre 127 bis) has a wing reserved for families with children.

708. The detention may not exceed two months. Nevertheless, the law provides the possibility of extending the detention by periods of two months when the necessary steps for removing the foreigner have been undertaken, when they are pursued with all due diligence and when there is still a possibility of effective repatriation within a reasonable period.

709. Decisions to detain and extend detention in a closed centre may be appealed to the Judges Council Chamber of the Correctional Court in the foreigners' place of residence, the place in which they were found or the place where they are kept, depending on the circumstances.

710. An appeal to the Judges Council Chamber may be lodged from month to month (in certain cases it is introduced by the Minister for the Interior himself). The Judges Council Chamber rules within five working days of the deposit of the application on the conformity with the law of the measure depriving the person of his liberty. If the Judges Council Chamber fails to rule within the prescribed time, the foreigner is released (article 72 of the Act, amended by the Acts of 28 June 1984 and 10 July 1996).

b) In the French Community

711. See also the statistics attached to this report.

712. In the spring of 1998, in accordance with article 2 of the Order of the Government of the French Community establishing the position of Delegate-General for Children's Rights, the Delegate-General took the initiative of establishing a working group on the topic "Treatment of young offenders by the group of public institutions for the protection of young people: observations and prospects". To that end, the Delegate-General appointed experts (members of the staff of institutions, judicial authorities, lawyers, institutions for assistance and protection of young persons, the academic world and the administration).

713. One of the tasks of this working group is to focus on the following issues:

a) Development of the nature of juvenile delinquency, notably as regards a more likely transition towards aggressive acts;

b) Re-adaptation of the programmes and methods in force in the group of IPPJs as a function of the evolution of juvenile delinquency and the status of the young people entrusted to them. Hence, would it not be wise to envisage care structures capable of handling adolescents who sexually assault women and children. Special treatment for young people whose offences are accompanied by assault might also be envisaged;

c) Professional training of agents, candidate selection, ongoing training, and external supervision to be developed in the IPPJs;

d) The need for joint reflection by the French Community and the Ministry for Justice on the lack of harmonization between the educational projects developed and the nature of the placement. A main target is the problem of disguised preventive detention in closed institutions. The judicial authorities also recognized this practice during discussions in the Commission for the Reform of the Young Persons Protection Act;

e) The need to develop permanent places for exchanges and consultation between the French Community and the judicial authorities, notably through emergency meetings urgently in the event of a crisis;

f) Judicial protection has its limitations. The French Community must do all in its power to push back the boundaries as far as possible, i.e. in terms of instruments (supervision norms, specializations, interdisciplinary teams, etc.), methods and ethics. Should it fail, should there not be negotiations with the Ministry of Justice on new measures and procedures which respect the rights of minors so as to avert the need to re-impose emergency measures that do not offer all the guarantees? Beyond the competence of the French Community, there is the problem of enforcing the Protection of Young Persons Act of 8 April 1965, and of care of minors subjected to relinquishment of jurisdiction and subsequently imprisoned;

g) The adaptations required for the care of young offenders in the context of the repeal of article 53 of the Protection of Young Persons Act of 8 April 1965, which allows minors to be placed temporarily in a detention centre.

714. As to children placed in a supervised educational institution under a protection measure imposed by the juvenile court pursuant to the Protection of Young Persons Act of 8 April 1965, it should be pointed out that the Decree of 4 March 1991 on assistance to young persons, which is responsible for the enforcement of such measures, provides that placement in a closed institution may be entrusted only to an establishment that is a member of the group of public institutions for the protection of young persons (IPPJs). Such accommodation is reserved for a young person who has been prosecuted and subjected to a judicial decision explicitly prescribing such placement.

715. In addition, young persons placed in a public institution for the protection of young persons (IPPJ), in other words in an institution reserved for young offenders, enjoy specific rights.

716. First and foremost, they enjoy the right of access to the group of public institutions. In effect, a public institution may not refuse a young offender unless it is full. This first guarantee is intended to prevent a judge from discovering that an institution refuses a young person and must then being obliged to place him in a penal establishment, in accordance with article 53 of the Act of 8 April 1965.

717. A minor has the right to be informed of the regulations of the institution in which he or she is placed.

718. If the minor is placed in a public institution for more than 45 days, he or she must be the subject of a medical-psychological report. This report will be transmitted, within 75 days of the date of admission, to the placement authority and the competent administration. The initial report will be supplemented by quarterly reports and studies.

719. Placement in a closed institution is part and parcel of deprivation of liberty. Limitations on such placement in a closed institution are provided for:

a) Closed detention may take place only in a public institution;

b) Placement in a closed institution is reserved strictly for young people who have committed an act deemed to be delictual;

c) A young person may be placed in a closed institution only through a court ruling;

d) The institution in which the young person is placed must perform pedagogical and educational functions and possess the necessary instruments.

720. Young people in closed institutions also enjoy other rights, such as the right to communication and to pocket money.

721. The Community Youth Assistance Council must pronounce on the number of available places in closed institutions to receive young offenders.

722. The Decree also provides for very strict guarantees for solitary confinement of young people entrusted to the IPPJ group. The modalities of solitary confinement and their monitoring are regulated by the Government Order of 21 March 1997, which also defines the standards applicable to the premises.

c) In the Flemish Community

723. Serious efforts are being made to secure sufficient residential care capacity so that article 53 of the Protection of Young Persons Act could also be repealed in regard to that category of minor. A date to be set by Royal Order, debated in the Council of Ministers would suffice (article 53 bis of the same Act).

724. The 1999 budget earmarked additional resources to meet the new social needs of special assistance to young persons. Some of these resources will be used to expand the different aspects of the work - reception, guidance and observation - and for the institutions providing specific care for minors for whom support is problematical. Additional resources are also earmarked for developing projects that afford alternative sanctions to imprisonment for young offenders.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Drug abuse (art. 33)

a) In the French Community

725. As one facet of drug-abuse prevention, the French Community supports a series of projects implemented by grassroots associations. Also, in concern for coherent preventive actions, a protocol of cooperation was drawn up between the French Community and the Ministry for the Interior, so that associations recognized by the French Community may organize awareness and briefing sessions on the subject for minors in schools.

726. The administration has published a brochure entitled Drugs and the institution, which addresses such concerns, for wide dissemination in public and private youth-assistance institutions.

b) In the Flemish Community

727. The Flemish Fund for the Integration of the Disadvantaged referred to in paragraph 462 of the initial report was abolished in 1996 (see above Part VIII. E).

728. In the youth special-assistance sector, a variety of prevention projects intended to keep children away from drugs are in course of preparation. At the Ruiselede institution for special assistance to young people, a special project was launched in collaboration with the local police force to ban drug-use there. The *Vereniging voor Alcohol en Andere Drugsproblemen* (VAD) (Association for alcohol and other drug problems) is also developing a basic infrastructure, and teaching materials.

729. The Flemish Government has entrusted the VAD with coordination of drug-abuse prevention and assistance and is implementing a number of projects for the Flemish Community. It always works through intermediaries such as persons active in the field of prevention, youth mobilizers and teachers, but it does not itself make direct contact with minors. The VAD's activities are conducted at the Community level while the above-mentioned intermediaries implement the joint local and regional projects.

730. Since 1997, the Flemish Community has been subsidizing a three-year project providing prevention equipment for specific high-risk groups among the secondary-school cohort. The not-for-profit association *Leefsleutels* (Keys to Life) furnishes equipment, in association with other specialized organizations, to cater to the different years of special secondary education. That project also receives support from the psychological-medical-social centres and the School Medical Inspectorate centres, which work in teams to help teachers familiarize themselves with the methods. In addition, lessons on specific drugs-related topics may be given in these centres with the teachers' help.

731. Also targeted are specific high-risk groups outside the school and family environment. In this connection, the Flemish Community supports the project on drug prevention using the methodology developed by youth counsellors, established by *In Petto*, a national service for young people, in order to reach minors and young people during their free time. As part of this project, minors aged 16-18 will be trained and supported within the *Jongeren Adviescentra* (Counselling centres for young people) so that they could in turn, through youth mobilization, play a central role in support, referral to specialized institutions and positive influence. In recent years some 450 minors were trained as youth counsellors in drug-abuse prevention.

732. It has been decided that greater recourse will be had to youth counsellors in the near future in order to reach a wider range of children. Thus, youth mobilizers in socially disadvantaged districts will become actively involved in the work of the youth consultants so as to secure greater influence on certain groups of socially vulnerable minors.

2. Sexual exploitation and sexual abuse (art. 34)

a) At the federal level

i) Computer protection

733. The Dutroux affair engendered a fierce reaction to child pornography.

734. Belgium launched the idea of signing an international code of ethics for Internet access providers with regard to paedophile sites. It wished to secure an agreement within OECD whereby Member States undertook to ban paedophile sites and to take any action necessary to that end. The Belgian proposal was finally integrated into the wider French proposal, which aims to combat any type of illicit or harmful content on the Internet.

735. For its part, the Internet Service Providers Association (ISPA), which comprises Internet access providers in Belgium, established a code of conduct.

736. Lastly, the judicial police have an Internet site devoted to child pornography.

737. The current objective is to coordinate the ISPA's action with that of the judicial police.

ii) Combating violence against women and children

738. For 10 years now, the Ministry of Labour and Employment has been implementing a policy to combat violence against women and children. A national briefing and awareness campaign was launched through posters and brochures, Violence, deliberate?, and teaching materials have been made available free of charge to the population, such as the video project Say it!, designed to teach primary-school children to defend themselves.

739. A few remarks should be made in that regard:

a) Since monitoring is not sufficiently strict, minors who pass themselves off as adults are likely to be sexually exploited by the prostitution milieu;

b) The accommodation offered by specialized care centres for victims of trafficking in human beings is not suitable for minors. While a solution can sometimes be found through cooperation with other existing services, it would be desirable for proper care services to be organized;

c) It should be mentioned that the very rights enjoyed by minors sometimes limits prevention of sexual abuse violence against them. For instance, abusers have been known to recover children taken into care by the authorities and enjoying a certain amount of freedom.

iii) Victim reception

740. Victim reception has been addressed through the suitable design of police stations and through police training.

iv) Prevention and combating recidivism

741. Another aim of the federal agenda is prevention and combating recidivism. It includes perpetrator-assistance pilot projects.

v) Improving the victim's legal situation

742. Efforts have been made to improve the victim's legal situation, through Rape Act of 4 July 1989, preparation of the "sexual aggression set" and the issuance of medical certificates showing acts of violence.

vi) Prevention

743. The Ministry of Justice has participated, in collaboration with the Communities, in the preparation of prevention brochures.

vii) Miscellaneous

744. A bill on increased protection of minors in the Criminal Code is being prepared and a working group to study the issue of children's recorded hearings has been formed.

b) In the French Community

745. The French Community adopted the Decree of 16 March 1998 concerning assistance to abused children, which repeals the Decree of 9 May 1994 on coordination of the fight against the ill-treatment of children. The Decree sets out numerous responses, in the French Community, to the proposals formulated by the National Commission against Sexual Exploitation of Children.

746. This Decree concerns, first and foremost, coordinated screening and enhanced care in situations of ill-treatment. It also imposes on all psychological-medical-social workers in child sectors the obligation to come to the assistance of a child victim of ill-treatment or a child suspected of undergoing such treatment. It also regulates the general coordination, by judicial district, of the fight against ill-treatment by judicial districts and institutes a Standing Committee on Abused Children.

747. Article 13 of the above-mentioned Decree provides the institutional framework of the French Community's Ecoute-Enfants, whose main activity is to guarantee assistance to children by providing them with a telephone helpline. It is a major tool of prevention and care for all child victims; the number is 103 and ensures that children can talk freely without any time constraints. The 103 number also caters to all children who, at any time of the day, evening or night, feel the need to talk to or confide in someone because they feel unwell, are experiencing difficulties, and so on.

748. The helpline respects the pace the child sets and what he wishes to disclose or conceal, while, if necessary, structuring the interview sufficiently to suggest possible solutions to the child's problems. This service, staffed by 50 professionals, meets the young persons' needs: in other words, a territory of their own during the time slot.

749. The children's helpline has been widely advertised through posters, brochures and stickers, which are posted in places frequented by children, schools, sports centres and cultural sites. In addition, radio and television have aired a promotional spot. The purpose of the campaign is to engrave the telephone number on the collective memory, especially that of children. The campaign transmits no dramatic message but gives, on the contrary, a positive picture of the number 103 so that children recognize it as their friend.

750. As far as prevention is concerned, a vast campaign entitled Article 34 campaign - referring to that article of the Convention on the Rights of the Child - launched on the Delegate-General's initiative, was conducted by the Government of the French Community in collaboration with the Ministry of Justice. It created a variety of tools - posters, pamphlets and brochures - aimed at three different types of public: children themselves, professionals in the child sectors, and the general public.

751. Lastly, various personal-safety education campaigns for children were conducted, especially in schools.

752. A crisis unit comprising representatives of the Minister-President of the French Community, youth assistants, the Delegate-General for Children's Rights, the Family League, the Houtman Fund, the Committee for Support to Abused Children, and the administration of the Births and Children Office, was established at the end of August 1996.

753. The training programme launched on the initiative of this crisis unit was put in place as part of a project entitled From detection to care, what prevention? This campaign reinforces the aim of promoting a multidisciplinary approach to the ill-treatment of children, with concern for monitoring the seriousness and reliability of supervision staff in reception centres, whether subsidized or not.

754. The ONE organized training for infant sectors, youth assistants, and psychological-medical-social (PMS) centres and School Medical Inspectorate (IMS) centres. This action in favour of front-line professionals is designed to organize areas for support, conversation and training in order to attenuate the impact of the collective emotional climate.

c) In the Flemish Community

755. Within the Flemish Community, *Toerisme Vlaanderen* (Tourism in Flanders) is preparing a cooperation agreement between the Communities and regions, concerning the status of travel agencies. The draft provides for the creation of a code of ethics applicable to all licence-holders and their staff. One of requirement prohibits the conclusion of contracts with a travel organization or agency that is involved in sexual exploitation of children or has any purpose that runs counter to public order or morals. This means that once the cooperation agreement enters into force, a travel agency may have its licence withdrawn if such facts are established.

756. Moreover, Tourism in Flanders totally endorses the views of the European Commission on sex tourism involving children.

d) In the German-language Community

757. During 1998, the information brochure *Aimer sans abuser ou l'enfance respectée* (Live without abuse; respect for children) will be translated and adapted by the Family League and published with the support of the Government of the German-language Community.

758. Two interdisciplinary working groups play an important role; they deal with matters of ill-treatment and aim to provide better child protection (see above, Chapter VI. I. 2(c)).

D. Children belonging to a minority or an indigenous group (art. 30)

In the Flemish Community

759. In the Flemish Community, *Onderwijs in Eigen Taal en Cultuur* (Education in the child's mother tongue and culture - OETC) provides an optional course that enables this provision of the Convention to be implemented (see above, Part IV. A).
